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PROCEEDINGS

NINETEENTH ANNUAL MEETING

NATIONAL ADVISORY BOARD COUNCIL

FEBRUARY 24-27, 1959

WASHINGTON, D. C.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
EDWARD WOOZLEY, DIRECTOR

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Delegates and Participants in the Nineteenth Annual Meeting of the National Advisory Board Council for Grazing, February 24-27, 1959, Washington, D. C.

#57516682

Seated, left to right:

Leonard Horn, Colorado
Stanley McKnight, Utah
Briant Stringham, Utah
Lee Esplin, Arizona
Vard Heaton, Arizona
Laura Olson (Representative Charles O. Porter's office, Oregon)
Chairman A. D. Brownfield, New Mexico
Dan Hughes, Colorado
Ralph Faulkner, Idaho
Milford Vaught, Idaho
Henry Gerber, Oregon
Julian Arrien, Oregon
John Scharff, Wildlife Representative, Area 1

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Standing, left to right:

Joseph Tudor, Solicitor's office
Frank Mensel (Representative David King's office, Utah)
James Thornton (Representative Byron Johnson's office, Colorado)
Grant Midgley (Senator Frank Moss' office, Utah)
Claude Wood (Senator Clinton Anderson's office, New Mexico)
Robert Wolf (Senators James Murray's,& Mike Mansfield's offices, Montana, and Senator Richard Neuberger's office, Oregon)
Phil Dickinson (Senator Claire Engle's office, California)
Thomas Knagge, Wildlife Representative, Area 2
Fred Strosnider, Nevada
Arthur Lee (Representative John Rhodes' office, Arizona)
Clarence Grieve, Wyoming
Associate Director Earl Thomas, BLM
Assistant to the Director C. Edward Hoyt, BLM
George Swallow, Nevada
Assistant Director James Beirne, BLM
Assistant Director Charles Mead, BLM
Lee Walker (Senator Howard Cannon's office, Nevada)
Representative Keith Thomson, Wyoming
Representative Harold Johnson, California
Director Edward Woozley, BLM
John Hay, Jr., Wyoming
Carroll R. Noble, Wildlife Representative Area 3
Range Staff Officer, G. M. Kerr, BLM
Gene Etchart, Montana
Area Administrator, James Doyle, Area 1
Keith Jorgenson (Senator Henry Dworshak's office, Idaho)
Albert Angus, California
Floyd Lee, New Mexico
Frank O'Connell, Montana
Area Administrator Neal Nelson, Area 2

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Washington 25, D. C.

FOREWORD

To Members of the National Advisory Board Council:

The 19th annual meeting of the National Advisory Board Council was noteworthy for the wide range of subjects considered and the active participation by all members and visiting representatives present.

You will note that the presentation and discussion of proposed revisions to the Federal Range Code occupied nearly one-third of the conference proceedings. Though the code revisions and recommendations thereon were considered at different times throughout the meeting, all discussion and actions taken have been consolidated in one portion of the proceedings. The Council recommendations on these revisions and all resolutions of the Council are contained in the appendices.

On behalf of the Department and the Bureau I wish to extend our thanks and appreciation to the members of the Council for their fine expressions of opinion on the many problems of management concerning the conservation and balanced use of our public lands.

Edward Woozley
Director
Bureau of Land Management

ATTENDANCE

Council Members

State	Cattle	Sheep
Arizona	Lee J. Esplin	Vard H. Heaton
California	Albert Angus	
Colorado	Leonard Horn	Dan H. Hughes
Idaho	Milford J. Vaught	Ralph Faulkner
Montana	Gene Etchart	Frank O'Connell
Nevada	Fred Strosnider	George N. Swallow
New Mexico	A. D. Brownfield	Floyd W. Lee
Oregon	Henry C. Gerber	Julian Arrien
Utah	Stanley McKnight	Briant H. Stringham
Wyoming	Clarence N. Grieve	John W. Hay, Jr.

Wildlife Representatives:

Area 1	John Scharff
Area 2	Tom Knagge
Area 3	Carroll R. Noble

Department

Assistant Secretary, Public Land Management	Roger C. Ernst
Special Assistant, Public Land Management	Thomas F. Flynn
Attorney, Solicitor's Office	Joseph H. Tudor
Attorney, Solicitor's Office	Herman Lieberman
Bureau of Sport Fisheries and Wildlife, Branch of Refuges	E.E. Crawford

Bureau of Land Management

Director	Edward Woozley
Associate Director	Earl J. Thomas
Assistant Director	Charles P. Mead
Assistant Director	James P. Beirne
Assistant to the Director	C. Edward Hoyt
Area Administrator, Area 1	James F. Doyle
Area Administrator, Area 2	Neal D. Nelson
Area Administrator, Area 4	Jesse M. Honeywell
Range and Forestry Officer, Area 1	L. R. Nadeau
Range and Forestry Officer, Area 2	Chesley P. Seely
Range and Forestry Officer, Area 3	Cyril L. Jensen
Range Staff Officer	G. M. Kerr
Range Officer	Royale K. Pierson
Range Conservationist	Joe T. Fallini
Range Conservationist	Max W. Bridge

ATTENDANCE

Council Members

State	Cattle	Sheep
Arizona	Lee J. Keplin	Ward B. Benton
California	Albert Arnoy	
Colorado	Leonard Horn	Dan D. Hughes
Idaho	Milford J. Vaughn	Ralph Faulkner
Montana	Dana Stobart	Frank O'Connell
Nevada	Fred Stressmier	George R. Ovalle
New Mexico	A. D. Brownfield	Floyd W. Lee
Oregon	Henry C. Carter	Dillon Jordan
Utah	Stanley McKnight	Delant R. Erickson
Wyoming	Clarence E. Greeve	John W. Hay, Jr.

Wildlife Representatives:

Area 1	John Emmett
Area 2	Tom Kemmis
Area 3	Carroll H. Noble

Department

Assistant Secretary, Public Land Management
Special Assistant Public Land Management
Attorney, Solicitor's Office
Attorney, Solicitor's Office
Bureau of Sport Fisheries and Wildlife, Branch of Refuges

Roger C. Kraus
Thomas F. Kleppe
Joseph H. Taylor
Herman Eisenman
R.H. Crawford

Bureau of Land Management

Director	Edward Woozley
Associate Director	Karl J. Thomas
Assistant Director	Charles P. Mead
Assistant Director	James T. Ekins
Assistant to the Director	O. Edward Ruyt
Area Administrator, Area 1	James F. Doyle
Area Administrator, Area 2	Neal D. Nelson
Area Administrator, Area 3	Isaac N. Thompson
Range and Forestry Officer, Area 1	L. A. Madsen
Range and Forestry Officer, Area 2	Charles F. Seely
Range and Forestry Officer, Area 3	Cyril L. Johnson
Range Chief Officer	O. K. Rupe
Range Officer	Royale K. Pierson
Range Conservationist	Lee E. Mallory
Range Conservationist	Max W. Bodine

Range Conservationist	Myrvin E. Noble
Range Conservationist	Milo H. Deming
Range Conservationist	Claire E. Letson
Cadastral Engineering Staff Officer	Earl G. Harrington
Lands Staff Officer	Harold R. Hockmuth
Lands Officer	Irving R. Senzel
Minerals Staff Officer	Max Caplan
Assistant Minerals Staff Officer	William L. Shafer
Forestry Staff Officer	Walter H. Horning
Forestry Officer	Gerard F. Horne
Hearings Administrative Officer	Elmer F. Graham
Acting Information Officer	Dwight F. Rettie
Personnel Officer	Edgar B. Carroll
Adjudicator (Public Lands)	George R. Hyde
Budget and Finance Officer	Mark B. Welt
District Manager, Canon City, Colorado	George L. Turcott

Visitors

Senator Bry Stringham	Utah
Senator Claire Engle, represented by Mr. Phil Dickinson	California
Senator Frank E. Moss, represented by Mr. Grant Midgley	Utah
Senator Clinton P. Anderson, represented by Mr. Claude Wood	New Mexico
Senator Howard W. Cannon, represented by Mr. Lee Walker	Nevada
Senator Henry C. Dworshak, represented by Mr. Keith Jorgenson	Idaho
Senator James E. Murray)	Montana
Senator Mike Mansfield) represented by	Montana
Senator Richard L. Neuberger) Mr. Robert Wolf	Oregon
Senator Frank Church, represented by Mr. Porter Ward	Idaho
Senator Joseph C. O'Mahoney, represented by Mr. Mike Manatos	Wyoming
Representative Henry A. Dixon	Utah
Representative Harold T. Johnson	California
Representative Byron L. Johnson, represented by Mr. Jim Thornton	Colorado
Representative John J. Rhodes, represented by Dr. Arthur Lee	Arizona
Representative David S. King, represented by Mr. Frank Mensel	Utah
Representative Charles O. Porter, represented by Miss Laura Olson	Oregon
Representative Keith Thomson	Wyoming
Mr. Roscoe E. Hazard, Director of Farm Loans	Prudential Ins. Co. Newark, N.J.

Mr. Harry R. Carpenter, Treasurer	Kansas City Life Ins. Co. Kansas City, Missouri
Mr. George S. Hesse, Reviewing Ranch Appraiser	Equitable Life Ins. Co. New York, N.Y.
Mr. Albert Romeo, Public Lands Committee	National Association of Soil Conservation Districts
Mr. W. A. Williams, Public Lands Committee	National Association of Soil Conservation Districts
Mr. Charles C. Butler, Director, Land and Water Use Department	American Farm Bureau Fed. Washington, D. C.

NINETEENTH ANNUAL MEETING
NATIONAL ADVISORY BOARD COUNCIL
FEBRUARY 24-27, 1959
WASHINGTON, D. C.

Tuesday, February 24

Chairman A. D. Brownfield, presiding

Glancing down at the agenda I see I am slated to be the "lead off spokesman." Rather than change the arrangement I will make a few remarks and turn the meeting over to the Director.

Since the passage of the Taylor Grazing Act there has been an increasing demand each year for land. This has not been altogether by citizens who want to acquire land, more so by State and Federal agencies. The pressure for more land by these agencies has become so great that it has imposed an added responsibility on all of us. It is not merely a responsibility of protecting the economy of the ranching interests, but a responsibility of zealously guarding the local economy. This has been thrust upon us and we must not pass it by lightly.

All you need to do to learn the truth of this statement is read the Federal Register. With each issue there is one or more application for land to be withdrawn for some agency. A stabilizing effect on our government develops when her citizens acquire title to land, build homes and become a part of the community. But for State agencies to be allowed to continue the purchase of land, and remove it from the tax rolls, and for government agencies to be allowed to receive more and more land to the exclusion of multiple use, it is a dangerous sign, one that causes fear, fear from a local economic standpoint, and fear from the trend our government is taking through land management and increased controls.

An outstanding example of this is the renewal of legislation for creating most if not all of the remaining forested lands into exclusive wilderness areas. It is very discouraging to see grazing reductions which means money out of our pockets, and in many instances a loss in revenue to county government.

Part of our duty each year is to review operating policies of the BLM with emphasis on decisions that disturb us occasionally and about which we ask for explanations. After getting the answers we have never been backward in making recommendations. In fact, this is our prerogative, and I think it is a wise and healthy procedure. Problems vary between States, and between districts in States. Some, or most of the districts are operating satisfactorily under the Federal Range Code. A few permittees are having difficulty adjusting to the rules and regulations. Changes have been made and are being made in the Code from time to time to meet changing circumstances as they arise, and this again creates a problem with some permittees.

I feel sure if we give these changes sufficient study we will make proper recommendations in the light of changing circumstances, and thus the overall problems will be much lessened. The most disturbing thing that comes to us each year is proposed legislation that, if passed, would practically destroy the effectiveness of the advisory boards. We have that confronting us again this year. One of the two primary objectives of the Taylor Act is stability of the livestock industry. For that reason we are justified in working to give grazing use top priority, and in keeping these boards weighted in favor of grazing users on the boards. I hope we have enough friends in the Congress who will help us prevent this worthwhile and workable system from being eliminated. And I want to say one thing more. I hope we will never have an official connected with the BLM who does not look with favor on the advisory system as a valuable asset, and who will at all times stand with us and fight to preserve the system.

Again so long as the Government retains possession of any land classified suitable for grazing, let us insist that multiple use prevail.

Gentlemen, the first topic on the agenda is a report from Director Woozley on the Bureau objectives, progress and present status of its program, Mr. Director.

DIRECTOR: Thank you, Mr. Bromfield. I am sure we all appreciate the remarks you have made and the constructive suggestions that you have put before this group.

Gentlemen, I want to assure you that we are disappointed in not being able to meet in the Secretary's conference room this morning which is more fitting for a meeting of this kind. I hope we can meet in the conference room this afternoon.

It is always a pleasure to meet with you, and we appreciate the work that is being done by advisory boards. Certainly it is in direct connection with grass root operations, and we welcome you to Washington to talk over many problems of mutual interest to us. We will learn a lot, I am sure, from the work that will be done during the conference. We appreciate the suggestions submitted as subject matter to be presented to this group for discussion. You represent a cross section of many interests - business, finance, land resources, and other agencies. We don't want you to think we are trying to outnumber you. We try to have a number of Staff Officers to meet with you so that you will have an opportunity to learn more about our overall operations.

I want to welcome the newcomers and would like to mention some of the familiar faces that are missing. One is Wes Wallace, Area Administrator of Area 1. Wes temporarily is unable to travel and we all hope he will soon be well; we miss him. Another person missing is Red Hall, who was secretary to the American National for some time. He died suddenly and we shall miss his counsel; he was a wonderful fellow.

I'd like to tell you briefly what we have done, since you were here last year, in our lands program (which touches upon range management); the income we received from our minerals program; our extensive forestry program, which also ties in with range management, our range management program, which includes weed control, soil and moisture conservation, adjudication--all having to do with the management of our lands, and cadastral surveys.

Cadastral surveys is an important Bureau activity. There are about 100 million acres yet to be surveyed in the States. Less than 1% of the land in Alaska has been surveyed. When Alaska was admitted as the 49th State she was granted 103 million acres of land for school purposes. These can be selected in large blocks, and 4 million acres are to be selected each year. This adds up to a heavy workload for cadastral surveys. We are putting markers on the ground to determine the identity of the land, and are learning a lot of new techniques. Mr. Harrington deserves a lot of credit and will tell you more about this program. In Alaska most of the inland waters are being determined by photogrammetry. All beds of navigable lakes and streams in Alaska will be under the new State and examination of the area will be made by this method. We have also found that the tellurometer is effective in measuring short distances as well as long ones. A lot of progress is being made on surveys in

Alaska with these new methods.

The first thing we are interested in is people. With the exception of Alaska there has been little change in total employment numbers. There were 2,274 employees last year and 2,440 this year -- an increase of 166, mostly in Alaska. Some improvement in grade structure has been made and we have been able to get and keep outstanding people. The Civil Service Commission has recently completed a review of our range standards. There will be some discussion on this with Personnel as we go along.

We have decentralized our programs so that the districts can indicate what they would like to accomplish and establish a time table in which to accomplish it. We have to be realistic about projects programwise and be able to sell the Department and Congress to obtain the money to do it. Modifications in area programs to improve work plans are being accomplished. We think if we can visualize the job to be done, the number of man-hours to do it, putting it into proper sequence, we will have accomplished a good deal. When we go to Congress they ask what we did with the money they gave us last year, and we have to have an answer. This fiscal year we received $24,312,000, an increase of $65,000 over last year. The increase in funds for 1960 will provide primarily for an increased workload in lands, minerals, and cadastral surveying in Alaska. Our range management, weed control, soil and moisture, and forestry programs will be on about the same level as 1959. Funds for the access road construction appropriation for 1960 total $5,200,000 practically all of which is reimbursable from O & C counties in western Oregon for roads that must be constructed on those lands. These lands cannot be disposed of and must be managed for sustained-yield forestry. Twenty-five per cent of the receipts from sale of O & C timber will go into roads and reforestation.

We made considerable progress in releasing reliable and interesting information last year. Cooperative efforts have been made between the range users and the district managers, who are responsible for improvement in information and public relations. We have some publications that are very helpful--one, for example, is on the small tract program which may be of interest to you. We have a new movie since you were here last year -- a 28-minute movie showing all activities of the Bureau, and five or six training slides with sound effects to show in your local communities. If you would like to use them your State Supervisor will furnish you some of these films. We also will have an opportunity to tell the youth of America about conservation through the National Boy Scout Jamboree to be held in Colorado in 1960.

We have had a problem with land locators and so-called mineral experts who are encouraging people to get Government land. They haven't been too factual in telling individuals how they can get 325 acres free, all they have to do is to send $2 and the land locators will tell them how to get it. It is necessary that we give the people facts and the truth about our public lands, and keep counties and communities fully advised of our programs.

One of our groups is the management-improvement group, under Earl Thomas, which finds new practices in management which are acceptable and effective. One thing we are trying to do is to get uniform practices in all our offices. We have reproduced district maps by a photographic process which is saving us $40,000, and we have had photographic maps produced showing S & M and RI projects, etc. We have also made improvements in some of the forms we use. They are fewer and more comprehensive. Also, we are making a study of inventory reports which will be helpful, and are studying ways of reproducing some of our documents so that they will not have to be typed.

We are proud to say that we were practically current on our grazing appeals the first of the year, but we received 15 new appeals in January. Out of 102 appeals, the hearing examiners have rendered 19 decisions and 83 are awaiting hearing. We have developed a new digest-index service and have made additional hearings examiners available for grazing appeals. We are also preparing to publish the early decisions of the Department on cases under section 3 of the Taylor Grazing Act.

Another activity is our international cooperation work, in charge of Byron Denny. Through this activity our technicians are sent overseas to assist in management programs, and technicians of other countries come here to study with us. The program is conducted on a reimbursable basis through the Department of State. Last year a group of Libyan sheiks visited the western Wyoming grazing districts, and much credit for the success of their visit is due the local advisory boards and to John Hay, a member of this group.

Under Luther Hoffman the Eastern States Office is making good progress in the management of lands and are disposing of many small tracts of publicly owned land. We have closed the Russellville office and are enlarging our office in New Orleans to provide space for the increased workload. The Bemiji, Minnesota office has been transferred to St. Paul.

We have an extensive forestry program. Receipts amount to 22 million dollars, 2 million of which is from public domain. One of the most perplexing problems in connection with the forestry program is that of access roads. Where you have checkerboard lands it is especially troublesome, but we are making progress in working it out.

We have two types of minerals, hardrock and leasable. Many people don't understand our mineral leasing laws and procedures. Often times they feel we are trying to take their rights from them when we are only trying to determine the validity of whatever rights they may possess. If an area is known to contain valuable minerals then it must be leased competitively, otherwise first come, first served.

We have an acreage limitation of 46,080 under lease in any one State, and we have had trouble in getting people to adhere to the acreage limitation. Receipts from our mineral leasing program amounted

to 88 million, of which 37-½% goes to the States, 52-½% to the Bureau of Reclamation, and 10% to the Treasury. We have this year 119,971 oil and gas leases, covering some 94 million acres. This compares with 108,018 leases last year. There is a shift in acreage holdings each day, and we have developed a card system to determine how many acres each person holds. We have asked the Congress to establish a minimum of 50 cents an acre on leases and abolish the second and third year moratoriums. Another problem we have is that persons may get leases up to 46,080 but under existing laws may assign them in 40-acre tracts. This creates a lot of extra work for us and most people are paying from $100 to $200 for an assigned 40 acres. A lot of people are spending money to obtain leases when they could get them for 50 cents an acre.

Next to range management probably the operations of the Lands Staff is most important. The pressure for lands is terrific; new industries are being attracted to the West, and there is a growing desire to obtain land for recreational use. We want to keep our land use for its highest purpose and discourage locators who are giving out false information. We have had to control the small tract program because of these land locators and we have been swamped with applications. In southern California desert land applicants pay as high as $10 an acre to file for these lands. We have proposed legislation for a new lands program, where lands can be sold at public auction, which might discourage the so-called exchanges we have had getting land in one part of the State and trying to exchange it for another tract in the same State.

You are always interested in our withdrawal program. Any withdrawal over 5,000 acres now must have the approval of Congress. Between 1954 and 1958 we withdrew 5,700,000 acres and restored 8,300,000. We have before us 22 million acres under application for withdrawal, which doesn't include any wilderness areas. The States have been allowed to select lands in lieu of those lost in school sections; this law was later amended to enable the States to select lands of equal acreage and exchange them for lands of equal value. If the lands are known mineral they can select lands of known mineral.

This brings us to the range management operations.

An important addition was made to the Federal range on November 6, 1958, when President Eisenhower approved the transfer of approximately 2-¼ million acres of Bankhead-Jones land from the Department of Agriculture to the Department of the Interior. The transfer has been physically accomplished, including personnel and property, and we are now in the process of completing the formal orders which will include the new land in four grazing districts in Montana and two grazing districts in New Mexico.

Since our last meeting we revised our policy statement covering the conduct of resource surveys. The new policy statement covers planning, conducting, and use of original surveys, resurveys and rechecks of old surveys. In addition to giving surveys adequate publicity, we intend to

cooperate with State and Federal research agencies on pertinent studies and through collaboration with other land-managing agencies having range management responsibilities we will continue to improve the accuracy and reliability of our range survey methods.

We have been receiving a number of complaints concerning our range adjudication programs in Oregon, Idaho, and Wyoming, some of which indicate that an organized campaign is under way to obtain a deferment in completing our adjudications. Actually, the adjustments in grazing use being considered will not seriously impair any ranching operation.

The former Fort Stanton Military Reservation continues to be a problem to the Bureau because of competing interests in securing use of the land. There is presently before the Department a withdrawal order which would transfer jurisdiction of Fort Stanton to the Agricultural Research Service for cooperative research in range management, game management, and animal husbandry. At the same time the Mescalero Apaches are requesting that any action toward the disposition of Fort Stanton be deferred pending a legal examination of their claims to the land.

We are making a joint attempt with the Navajo Tribal Council to carry out the provisions of an exchange of land in the McCracken Mesa area of southeastern Utah for lands occupied by the Bureau of Reclamation in connection with the construction of the Glen Canyon Dam. The law passed by the last Congress permits the Navajos to select lands within a certain area on McCracken Mesa and also provides for compensating the range users who will lose grazing privileges as the result of the exchange. We are being requested by the Tribal Council to complete the exchange immediately, but time is needed to appraise the loss of range users and to negotiate the selection of lands in the McCracken Mesa area.

Another problem with the Indians relates to the so-called San Carlos mineral strip, which lies along the southern boundary of the San Carlos Indian Reservation in southeastern Arizona. The mineral strip consists of over 200,000 acres of land which was ceded to the Federal Government in 1891. The San Carlos Indians now want the lands returned to them, some of which are within the Safford Grazing District or administered under section 15 leases by the Safford District Office. We note that the grazing district advisory board and the Arizona State advisory board have submitted resolutions opposing the return of these lands to the Indians on the basis of the disruption of the present ranching operations on these lands.

We are sponsoring new legislation for the present session of Congress which will accomplish an urgently needed rearrangement of management jurisdiction for certain lands in New Mexico now administered by the Bureau of Land Management, the Bureau of Indian Affairs, and the Forest Service. In the past we have had an almost impossible management problem with respect to scattered tracts of Federal range interspersed with Navajo lands in the Church Rock-Two Wells area. If enacted, this legislation

will transfer to the Navajo Tribe certain public lands and authorize the exchange of others, with the Bureau of Land Management obtaining jurisdiction over a township of LU land now isolated by Federal range.

The problem of public lands surrounded by private property, making them inaccessible to hunters, fishermen, and others, has been brought to our attention quite forcibly since our last meeting. We are carefully considering the problem of access and we intend to devote every effort to develop ways to reach those areas of public land having significant recreational values. We are particularly concerned, since we administer some 470 million acres of public lands in 49 States. Some tracts of public land exist as more or less scattered remnants of the original public domain. Normally these tracts are too small to have any appreciable multiple-use values and as such eventually should be disposed of or relegated to a single-purpose administration for such uses as grazing, for instance. If, on the other hand, it might have a high public value such as providing an access route to fishing waters, the Bureau's recreation policy will allow the State or local government agencies to lease or acquire such lands under the Recreation and Public Purposes Act. Of course, where Federal lands exist in large unbroken tracts and are valuable to the public for recreational purposes as well as for grazing, mining or lumbering, we want to preserve the integrity of all these values. We are confident that by working with cooperating agencies, sportsmen and local groups, and individuals, the problem of providing the public with a means of enjoying the natural resources which it owns will be overcome and all interests satisfied. We have had a somewhat similar problem of access to the O & C timber lands in western Oregon. There we are utilizing reciprical right of agreements and when these or other cooperative efforts fail we will use the power of eminent domain (condemnation).

There have been a number of developments affecting wildlife administration during the past year. One of these is the establishment of a Departmental policy for oil and gas leasing on Federal wildlife lands which prohibits leases being issued on lands withdrawn as wildlife refuges, except in cases where oil drainage is taking place as a result of operations on adjacent lands. On other wildlife lands such as game ranges, coordination lands, and Alaska wildlife areas leasing may be permitted subject to stipulation for the protection of wildlife for those portions of the area which in the judgment of the Bureau and the Fish and Wildlife Service do not harm the wildlife resource.

We have had several opinions from the Solicitor's Office which will have important effects upon our management procedures and policies. These will be discussed in some detail in connection with later talks by staff personnel, so I will not dwell upon them at this time.

The State of Nevada proposed to set up a formal cooperative agreement with the Bureau covering the development and construction of range improvements which would be of mutual benefit to the Bureau and to the State. After careful consideration in all field offices a general pattern for such

an agreement was established which may be used by any of the States to further this work.

You will recall that following last year's meeting several proposals were advanced to improve the effectiveness of wildlife representation at the district, State, and Washington levels. One improvement we decided upon was to have a definite place on the National Council program for a report from the wildlife representatives. We have planned that such reports as the wildlife members may wish to make can fit into the program either in connection with the topics to be discussed by Mr. Bridge on Wednesday or Thursday afternoon, the period we have left open for topics suggested from the floor.

About a month after the last Council meeting, a soil and moisture workshop conference was held in Albuquerque where policies and procedures to improve and refine S & M operations were discussed and guidelines proposed for revising the 20-year program plans. The plans had to be revised because of the steady rise in construction and operation costs and because some of the original estimates were inadequate for the reason that we did not have enough basic information.

The Bureau has planned for a coordinated approach to the control of beet leafhopper host plants, as the result of Congress providing a special appropriation of $300,000 for this purpose for the fiscal year 1959, to be used in southern Idaho. To date over 52,000 acres have been seeded to perennial grasses to replace the annual leafhopper hosts plants formerly occupying this land. More than 45 miles of protection fence have been constructed around these seedings. As you know, the leafhopper transmits curly top disease to crops, mainly beans, and causes an estimated 2 million dollar crop loss annually in Idaho. This is the first of a 10-year program in the State. There are no funds for this purpose in the 1960 budget up to now.

Another project being undertaken at the present time which will interest you, is a systematic study of cheatgrass ranges. We asked the Intermountain Forest and Range Experiment Station to do this for us, and we are sure that the results will be of benefit both to users of cheatgrass ranges as well as to other land-management agencies.

We are also interested in another project -- a cooperative research project -- to develop species of shrubs and grasses for use in revegetating the lower salt desert shrub ranges on which are found the greatest amount of halogeton. The project was started this fall, and the Agricultural Experiment Stations in Idaho, Nevada, Utah and Wyoming, the Agricultural Research Service, Bureau of Reclamation, and the Forest Service are all interested participants.

For the past 10 years the Bureau has been cooperating with the Forest Service and other Federal land-administering agencies in a joint development of equipment especially designed to perform conservation work on range lands. Probably you have heard of the Brushland plow and the

Rangeland drill -- two especially good implements for accomplishing efficient and low cost range reseeding work. A recent development has been the design of a tractor-mounted brush cutter for removing sagebrush and other woody shrubs without disturbing the soil or residual native grasses. Preliminary field trials with this equipment are very promising and it appears that another valuable implement will soon be available for improving the rangeland where the topography is too rough for other types of treatment.

A formal notice announcing the new grazing fee was published in the Federal Register January 20, based on livestock marketing data furnished us by the Agricultural Marketing Service of the Department of Agriculture. The new formula has been in effect since January 1958. The average price of beef was $22.90 and lambs $21.00 per 100 pounds, a total average of $22.00 per 100 pounds, or 22 cents an AUM. When livestock prices are up a greater return goes to the Federal Government, but on the other hand, when they are down, a measure of relief is provided the stockman.

You will recall that last year we were having a fire control conference in Washington at the same time the Council met here. As a result of that conference, and cooperative studies with the Forest Fire Research Laboratory at Missoula, Montana, considerable progress has been made. Of major significance is the establishment of a radio network system to provide communications in remote high hazard areas. Airplanes equipped with radios proved very successful in tracking down lightning storms. We had a fairly successful fire season in 1958, although in Oregon, Idaho, and Nevada fires were bad; in Alaska the fire situation was better that it was in 1957. And in cooperation with the Northwest Forest Experiment Station and the Weather Bureau a series of fire weather stations is being developed. These stations provide data for use with a fire-danger rating meter system which will inform us in advance of potentially dangerous fire weather conditions.

We have found that the use of sodium calcium borate is one of the most recent and best known techniques employed as a holding action on a fire until ground crews arrive. We had exceptionally good results in borate dropping in Alaska and also in several of the western range districts. Our improved fire control program has resulted in developing an efficient fire suppression force and reduced acreage burn per fire.

It was about two years ago last May that the Department and the Bureau became beseiged with letters of protest from the public deploring the methods used in gathering unclaimed and abandoned horses from the Federal range, and urging that we not destroy the last of the wild mustangs of the West. We are still receiving these letters from people who insist on believing the horses are the last of the Spanish herds brought here long ago, and who urge us to do something about the slaughter and rounding up of these animals. We have tried to explain the true situation, but every time a reprint of some of the stories that appeared in True magazine on Our Dumb Animals is published we find

ourselves faced with another battery of protests. There have been a number of proposals to establish a wild horse refuge, but it is extremely doubtful if that would solve the abandoned horse problem.

You will have an opportunity to discuss these and other topics more fully with Mr. Kerr, Mr. Pierson and other Range Staff personnel during the meeting.

1960 APPROPRIATION OUTLOOK
(JAMES P. BEIRNE)

The sheets before you summarize changes in our appropriations for 1960 as compared with that of 1959 (See Appendix A). The net change in our operating appropriation is an increase of $65,000 though there is a very radical change in the range activities. The emphasis which has been given is caused largely by the increasing demand for lands. The population in the Western States is going to increase considerably in the next 10 years. The increase in some States does not mean much as far as public lands are concerned, but in others it is important. For instance, California expects to have a larger population than New York. As a result, there is going to be a demand for more land for recreational purposes, as well as for retirement, and the demand will be on Federal land. To meet this demand, there is provided an increase of $646,000 for adjudication and field examination that is offset by a decrease in land records of $155, making a net increase of $492.

There is a net decrease of $616,000 in the various activities affecting range. There is a decrease of $39,500 in grazing administration for day-to-day work in taking action on applications; on examining base properties, and making range surveys; a decrease which means necessarily a curtailment of these activities. There also is a decrease of $87,200 in soil and moisture and $488,600 in weed control. Through efforts of Congress additional funds were provided in 1959 for soil and moisture and weed control, principally for eradication of the plants host to the beet leafhopper; however, neither of these are included in the setup for 1960.

There is no cut in fire presuppression on the Western rangelands, but there is a sizable cut in Alaska. As a result the work of conservation groups last year there was an increase allowed by Congress, but it was elimated from our request this year. We have been granted increases for fire protection contracts and all forest lands in the West are protected by contracts with fire-fighting associations, Forest Service or the States.

Most of the money in the construction appropriation is for access roads in O & C timber lands. This money is reimbursable to the Treasury from funds which would otherwise be paid to the O & C counties. These counties in western Oregon participate in proportion to the acreage they hold. Under the law they are entitled to 50% of the receipts, with 25% paid to the Government for administration, and an additional 25% paid to the Government until the costs of reinvesting have been received at which time 25% is paid to the counties. This compares with 25% paid on Forest Service lands and only 5% public domain. The counties have requested that Congress appropriate the 25% to build roads into timber lands and for reforestation. The 1960 appropriation provides for 5 million to be reimbursed. It provides $100,000 for access to public domain timber. However, it does not provide for any elaborate road construction. The facilities in Alaska which were increased last year to $150,000 have been cut back to $100,000 this year. These provide facilities for ranger stations, fire suppression work. All in all the picture is about the same level in total as far as the Bureau is concerned.

I will be glad to answer any questions.

ADMINISTRATION OF TITLE III BANKHEAD-JONES ACT LANDS TRANSFERRED TO THE DEPARTMENT OF THE INTERIOR BY THE DEPARTMENT OF AGRICULTURE (ROYALE K. PIERSON)

One of the major events of the past year in the range management activity was the approval on November 6, 1958 by President Eisenhower of Executive Order 10787, which transferred from the Department of Agriculture to the Department of the Interior 2,234,000 acres of lands acquired under the authority of Title III of the Bankhead-Jones Act.

These lands are commonly referred to as "LU" lands, the abbreviation for land utilization projects under which the lands have been managed since their acquisition.

All of the LU projects in Montana, totaling nearly 2 million acres, were transferred by this Order, and 239,000 acres were also transferred which are located in New Mexico. Two small LU projects, one in Texas and one in California, were also covered by the Order and were transferred to the United States Fish and Wildlife Service. About 15,000 acres in three Montana LU projects were transferred to the Fish and Wildlife Service, although grazing administration will be the responsibility of the Bureau of Land Management.

Title III Bankhead-Jones Act lands were purchased under various relief acts, such as the NRA and NIRA during the depression and were later covered under the Bankhead-Jones Act which was passed in 1937. In general, they were submarginal lands that in many instances were nearing forfeiture for nonpayment of taxes and on which it was impossible for the farmer or rancher to even obtain a subsistence standard of living. Most of the lands were purchased by the former Rural Resettlement Administration which was later succeeded by the Farmers Home Administration. Ultimately all of the LU lands were placed under the management jurisdiction of the SCS, where they remained until the reorganization of the Department of Agriculture in 1954. At that time USDA functions were grouped by areas of common interest similar to the Departmental organization in Interior. Responsibility for the administration of the LU lands was moved from the SCS to the Forest Service in order to consolidate all USDA land-management functions under one agency. Shortly after the reorganization a change in Departmental policy governing the LU lands was adopted with the objective of ultimately disposing of the lands by Agriculture. One of the early moves was the canvassing of other Federal agencies on their needs for the LU land. The Bureau at that time made a rather comprehensive study and requested a total of 4 million acres of the LU lands, the bulk of which was interspersed with other public lands already under BLM administration. The initial request was reduced before transmittal by the Secretary on the basis of a general criterion that the lands should be of such character as to warrant their retention in public ownership at least for the foreseeable future. Following a period of interdepartmental negotiation, agreement was reached on a group of Montana and New Mexico projects, the outcome of which was a halt in negotiations for a consummation of a transfer. However, after the final request was made, the Forest Service indicated a desire to be relieved of the management of all LU project lands in Montana, which substantially

increased the total acreage to be transferred. The terms of the first group of LU projects to be transferred included (1) that the preferences of present users of the LU lands be rcognized by the BLM and that their grazing privileges be honored under BLM administration; (2) that BLM retain the present distribution of receipts from LU lands, consisting of 25 per cent of the net revenues being made to the counties in which the lands are located; and (3) that the grazing fee formula in effect under Forest Service administration be retained.

Under the Bankhead-Jones Act the Secretary and the President have broad powers to transfer LU lands according to their best use and according to management terms as may be prescribed by the President and the Secretary of Agriculture. It was the desire of the Secretary of Agriculture that the transfer not disrupt the dependence of the counties on income from the LU lands, which is the basis for retaining the grazing fee structure and the disposition of receipts to the counties. Soon after the Forest Service took over the management and responsibility of the LU lands they established a grazing fee formula patterned closely after the formula used for determining grazing fees on national forest land. It is a fluctuated fee based on livestock prices of the preceding calendar year and a base administrative fee which was determined for each LU project area. The plan of administration contemplated by BLM for the LU lands is based on the principal that in so far as possible and consistent with the Taylor Grazing Act provisions the former pattern of administration will be retained. The Bureau will continue cooperative agreements now in force with the State Cooperative Grazing Districts in Montana and honor the agreements which the Forest Service has made with various livestock associations. The general attitude of the Department is that we should look upon the LU lands as nearly as possible as additional public domain recognizing, of course, that they are not subject to the public land laws governing entry upon the lands and that they can be exchanged under the provisions of section 8 of the Taylor Grazing Act. This attitude, in part, is based upon the original criterion that the lands are all of such character that they should be retained in public ownership. The Bureau plans a gradual transition in the management of the LU projects which will be covered by formal orders adding them to the grazing districts as Federal range, subject to the Federal Range Code for Grazing Districts.

DISCUSSION

BROWNFIELD: I think you have time to ask Riley questions. If any of you do have questions, please state your name clearly each time for the record.

VAUGHT: Is the area down in Malad, formerly under S.C.S. administration and now under Forest Service administration, included in this LU transfer to BLM?

PIERSON: There are about 50,000 acres that the Forest Service is still administering. We will probably start negotiating again now for the transfer of this additional project. The local Forest Service wants to keep that particular tract although the Washington Office would just as soon get rid of it.

ARRIEN: You mention that the grazing fees are computed much the same as on regular Forest Service lands. Is it because they are of a forest land nature, for forage purposes?

PIERSON: No, the Forest Service took over for the sake of uniformity. They used the fifteen-State livestock price in their fee base.

BROWNFIELD: The Bankhead-Jones lands in New Mexico are far from the forest and have no relation whatever to forest. Do they have the same fee down there as they do in Montana?

LEE: No, the fee is a little less than your Montana fee. But they are away from the forest and out on the plains where they have no relation to forest whatsoever. In fact, 64% of all the land that is under the Forest jurisdiction in New Mexico is non-commercial timber area.

BROWNFIELD: The next speaker on the agenda is Mr. Fallini, who will discuss nonuse allowable under the Soil Bank program.

NONUSE ALLOWABLE UNDER THE SOIL BANK PROGRAM
(J. T. FALLINI)

The Conservation Reserve of the Soil Bank administered by the Department of Agriculture offers farmers the opportunity to take cropland out of production and establish certain conservation practices on the land. The contracts under the program are for a period of not less than 3 years nor more than 10 depending upon the practice to be put on the land.

When base properties on which grazing privileges are attached are placed in the Conservation Reserve the applicant must apply for nonuse in order to protect his privileges. The Range Code provides for the authorization of nonuse for conservation and protection of the Federal range, fluctuation in livestock numbers, financial or other reasons beyond the control of the applicant. The first of these reasons is the only one that would apply in situations involving the Soil Bank Program.

Generally this provision has been adequate to take care of situations based on the conviction that with few exceptions the Federal range would be benefited by any amount of nonuse that may be extended. However, in Montana it has come to our attention that some grazing licensees are placing part or all of their base properties in the Conservation Reserve for a 5-year period and they plan to apply for nonuse on the Federal range for this period. In some of these cases, particularly in LU areas, I understand that nonuse on the Federal range is not required and could not be justified under the Code for conservation and protection of the Federal range. In such cases the issuance of grazing privileges to others on a temporary basis would be proper to avoid waste of the forage resources. The problem is how to handle the situation where nonuse is not justified under section 161.6 (e) (11) of the Code and would result in the loss of base property qualifications under other provisions of the Code.

DISCUSSION

O'CONNELL: Is there any danger of the user losing his priority rating when he does own lands under the Soil Bank Plan?

FALLINI: Yes, That's the problem with which we are confronted. The Code specifically states for conservation and protection of the Federal range, if nonuse is not justified under that provision, or the Federal range doesn't require nonuse, we're faced with this problem in connection with Soil Bank Program.

KERR: The problem as I see it is that we have these lands that are base properties are being placed in reserves under contracts that run for five or ten years. In those instances where the Federal range can be benefited through the nonuse that would result, the owner would be justified in asking for nonuse and we would be justified in granting it. In that event the qualifications of base property would not be adversely

affected. If, on the other hand, as does occur in Montana, there is no reason whatever to allow nonuse from a conservation standpoint, and if the owner of the land going into the reserve asks for nonuse, we should deny it. Then it's up to him. If he doesn't use the range or doesn't make application to use the range under the terms of the Code, his base property, after two years would be subject to loss of these base qualifications. Some range in the eastern part of the State is generally in good shape - but is subject to wide fluctuation from year to year. There may be a severe drouth one year that would warrant granting nonuse and the next year, due to favorable growing conditions, there would be an abundance of range and no justification for granting nonuse. One question we would like to be able to resolve is whether we could set these base lands in the reserve in an unused base hopper or vest pocket for a while during the time we issued the grazing privileges to someone else. At the end of this period a second party may feel that he has a good claim to the range and will ask why we should let the first chap come back in after he has had five or ten years of nonuse under the Soil Bank Program.

FAULKNER: Would the permittee dispose of his livestock and everything in order to go into this program?

KERR: In some cases they do that, in others they keep part of their base and want to run their full number of livestock, but with a reduced base property. In a case where the party's base went into the Soil Bank and he continued to operate on part of it, his livestock numbers should be adjusted to the productivity of the active base.

LEE: If you look at it fundamentally, it would ruin the Taylor Grazing law to give him permission to have nonuse over that land for ten years while his property is in the soil bank.

KERR: In effect it would be conclusive proof that he didn't have any need for the public range to make proper use of his base.

ETCHART: Do you have any idea how extensive this problem is? How many cases might be pending?

JENSEN: I'd say, Gene, it's mostly in the State of Montana.

ETCHART: This problem came before our local advisory board and after it was thrashed out it seemed to be very isolated cases, particularly farmers who have but very little public domain. It seems to me a matter of education.

STRINGHAM: We had a case before our local board where a man had surplus base. He put part of it in the Soil Bank Program and transferred his rights.

KERR: That can be done.

ARRIEN: If a permittee makes application for nonuse, not necessarily under the Soil Bank, can BLM grant a license on that nonuse without notification

to somebody else?

KERR: In most cases, the range needs nonuse. The nonuse applicant or holder of a nonuse license should certainly be advised of the intention to allow someone else to use the range.

MCKNIGHT: Mr. Kerr, you wouldn't attempt to put livestock out there for two years, would you - the time he's allowed to have nonuse?

KERR: They're going to follow the regulations which provide that they could have nonuse, and as long as the nonuse is issued that indicates there are no arrangements to be made by anyone. If a person has held nonuse for a period of years, whether two or five, if he's in the livestock business and the condition of the range warrants it he'd better get into it actively. We should notify him then that his further nonuse would not be granted. If he doesn't activate his license a license is granted to someone else. Under the regulations the only way he can retain the qualification of his base property in good standing is to have his license active or under authorized nonuse. If this nonuse went to a point where continuance was unjustified either he would again stock the range or lose his base property qualifications and the privileges might be issued to someone else.

TUDOR: The two years you refer to, Jerry, I assume, are two consecutive years. That wouldn't apply if he had nonuse. The nonuse provision provides that nonuse grazing privileges under a license or permit may be authorized by the district manager, upon application by the licensee or permittee, after reference to the advisory board for the following reasons: conservation and protection of the Federal range, annual fluctuation in livestock numbers, or financial obligations beyond the control of the licensee or permittee. In my opinion, the Range Code permits advisory boards to act on it. If the local district manager and the local board concur, that would be their business. I don't know how we're going to change this language to make it any more clear or any more workable.

I think we have a solution to this problem that will work. I believe it's a question of policy. If we can provide that the land may be put into the Soil Bank with the approval of the district manager and upon recommendation of the advisory board, an indirect but substantial benefit will go to the Federal range. That will not be true in every case. Many times Federal ranges in Montana are available for use. In that case there is no direct benefit to the Federal range but there is a substantial benefit to the Federal range that could come through the conservation and protection of the range, or we can put up a special proviso that requires approval of the district manager and the advisory board. In that way both acts can be utilized. In those situations where the base is taken out without benefit to the Federal range and without approval, then the man takes the hazard of the two year proviso and is liable to lose his privileges, but I think we can provide for protection where there is a benefit.

HUGHS: I think the thing is workable at the local level the way it is. In our Area we don't think very much of this Soil Bank proposition, for the reason that we have what you call milkweed. We don't think it is good practice for a man not to keep weeds down on his own place. The same thing applies in many instances to our public range. We spend a long time trying to keep weeds down. If you let this range go for a long period of time without use, and I'd say five years is a long period of time, I think our rule as it is would be ample. We accept the local board's decisions as being fair, giving a fair deal to associates and neighbors.

I don't believe we need a motion.

ADMINISTRATION OF INDIVIDUAL ALLOTMENTS IN WATER BASE STATES AFTER ADJUDICATION

(CYRIL L. JENSEN)

The degree of administration of individual allotments, especially in our water base States, is a matter of wide difference of opinion. Our water base districts in Area 3 are limited to New Mexico. All grazing operations in the districts of Colorado, Wyoming and Montana are adjudicated on land base properties.

Looking at the situation in the New Mexico Grazing Districts, there are about 320 individual allotments in the Albuquerque District, about 270 in the Socorro District, 370 in the Las Cruces District No. 3, and 140 in the Las Cruces District No. 4, 570 in the Roswell District, and approximately 200 in the Farmington District.

In all of these allotments, adjudication has been completed to a point that we anticipate no changes in the allotment lines by adjudication or at the most, only minor allotment adjustments by agreement. We have issued ten-year grazing permits to about 50 per cent of the operators in the Albuquerque District, about 40 per cent in the Socorro District, over 90 per cent in the Las Cruces Districts, 100 per cent in the Roswell District and about 85 per cent in the Farmington District. For the most part, these term permits are issued on individual allotments. We have about 270 free-use operators in the Albuquerque District, and of course, a much greater number than this in the Farmington District.

You may be interested to know that we have issued 1,036 5-year grazing permits to the Navajo Indians on a trial basis, as authorized by the Director. We have a long way to go to obtain effective management on the free-use allotments used by the Indians. We want to work very closely with the permittee to insure the best possible range management on these allotments.

Management protection by fencing the ranges in Area 3 and particularly in New Mexico, where I am somewhat familiar with the operations, has progressed to a great degree. This is because all or most of the range in several districts is in individual fenced allotments.

Individual allotments such as we have in the water base districts of New Mexico, and to some extent elsewhere, permit Bureau personnel to work closer with individual stockmen in managing the Federal range and fulfilling our obligations under the Taylor Grazing Act.

Section 3 of the Taylor Grazing Act provides for the issuance of grazing permits which "shall be for a period of not more than 10-years, subject to the preference right of the permittee to renewal in the discretion of the Secretary of the Interior, who shall specify from time to time the numbers of stock and seasons of use."

To keep abreast of changing range conditions, we have a range condition and trend program whereby our ranges are evaluated on a 5-year cycle to determine the condition of vegetation and soil, and from these ultimately the pattern of trend. In any analysis to determine the cause of trend, consideration must be given to seasonal precipitation, and extent and kind of grazing use.

Permits or licenses do not always reflect actual use, and we need to seek assistance from our range users, in keeping a record of number of livestock and periods of use each year. As these records become increasingly available, we will be able to work with the individual rancher on a more realistic basis as to range use adjustments, improvement, and wildlife matters to the benefit of both the industry and the Government.

As I have mentioned several times, I am thoroughly convinced, especially on our desert range areas, that we must stock and manage the ranges on an average grazing capacity. For instance, we cannot hope to stabilize the livestock industry, by stocking our range areas on a drouth year or peak moisture year.

I was deeply interested in a report given at the recent American Society of Range Management meeting at Tulsa, Oklahoma, by Gerald W. Tomanek from the State College at Ft. Hays, Kansas, in which he reported a study carried on by the college which showed the forage production on a gramma grass range varying from 400 pounds of forage yield per acre in 1939 to 4,000 pounds in 1958. This shows that he started his study at the close of the drouth of the 30's to the present time.

The graph that he presented with his talk showed the pounds of forage production, followed in direct ratio with the amount of moisture received in the soil for each calendar year. It was up to approximately 2,500 pounds in 1942. They had a dry year in 1943 and it dropped back down to 1,200 pounds. In 1944 they had an excellent year and increased to 2,700 pounds. In 1945 it dropped down to 1,500 pounds. In 1951 it reached almost 3,000 pounds. In 1952 it dropped down to 1,400 pounds. It rose up to 2,100 pounds in 1954 and dropped down to 1,600 pounds in 1955. In 1956 it dropped back down to 890 pounds. Rains came again and soil moisture conditions improved. In 1957 it reached almost 3,000 pounds and again in 1958 they had the highest yield ever recorded since they started the study, when the production reached an average of 4,000 pounds per acre. (See Appendix A)

The degree of grazing on these areas had been quite uniform throughout the years. It is on a very well managed pasture and so the difference is due primarily to the difference in environmental conditions other than grazing and the difference in soil moisture.

Now, if a rancher is going to have variation in yields from 400 to 4,000 pounds, he must have a flexible livestock program in order to be able to withstand such fluctuations on his forage crop. He certainly will be unable to stock his pasture on the basis of 4,000 pounds per acre and it

would be just as foolish to stock them on a basis of 400 pounds per acre. He must find a forage production basis upon which he can judge the size of herd that his unit will support and then he must keep his program flexible to fit in with these great variations in forage yield.

Forage production, as we all know, varies with the vigor of the plant and the amount of moisture in the soil for the growth of the plant. Vigor of perennial grasses is almost entirely dependent upon carbohydrates reserved in the roots.

A study was made of three short grass pastures. These pastures had a similar vegetative cover of blue gramma and buffalo grass. One was undergrazed. One had good management and the other had poor management. The undergrazed pasture had a yield of 2,000 pounds per acre. The moderately grazed pasture had a yield of 3,192 pounds per acre and the overgrazed pasture had a yield of 941 pounds per acre. All these pastures had the same species of grass and approximately the same basic cover. However, two pastures contained vigorous plants and the other contained weak plants.

Certainly we cannot hope to obtain maximum production if we do not have a vigorous grass plant, any more than we can hope to get grass production if we do not have available soil moisture.

In our desert areas, we can expect periods of drouth when there isn't sufficient soil moisture for heavy forage production. Not only do these drouths cause reduction in forage production, but they also cause death of many of our valuable range species. If our forage grasses are in good vigor when they enter these drouth periods, their chances of withstanding drouth and becoming high-producing grasses during the wet years are much better than those that lack that vigor.

It is not always possible to have a thorough knowledge of our range condition at the time we process our grazing licenses.

Generally speaking, I question the practice of retyping a 10-year grazing permit year after year on a billing set as a means of collecting the grazing fees. On this point I agree whole-heartedly with Mr. Brownfield. After an adjudication has been made and a 10-year grazing permit has been issued for the average grazing capacity of the allotment outlining as accurately as possible the year round operation of the permittee, I see no reason for the additional work being placed upon our district personnel in refiguring and calculating the number of livestock and AUMs year after year.

It has been my feeling for quite some time that we should only bill the stockman for his total AUMs instead of following the procedure that we are using today. The grazing license would then become a billing set.

We recognize that there are pros and cons for this type of procedure, especially in the States where range adjudication has not yet been

completed. However, in Area 3 approximately 70 per cent of the range users are now under 10-year grazing permit, which when combined with those 10-year permits now pending advisory board action, will greatly increase the total percentage completed.

I feel that we are now in a firm position to give serious consideration to changing our billing procedures. I made a similar suggestion several years ago, but I now realize that it was premature in that there were too many users operating under an application type of license system. Such is not the case today. It is my plan to resubmit this suggestion to the Bureau for consideration within the near future.

If a procedure of this type could be put into effect in all areas where adjudication has been completed and 10-year permits have been issued, it would greatly simplify our procedures and avoid considerable work in processing grazing billings, especially the large sheep operations that involve several units, sometimes more than one grazing district and two or three national forests.

The procedure would not prohibit a permittee from applying for less livestock in drouth years, nor would it prohibit him from making application for additional numbers of livestock in peak years when considerable excess forage is available. Under such circumstances, the application could be handled under the same procedures we are using at the present time. The new procedure would be a streamlined method which would apply to approximately 75 per cent of our billing sets each year whereby the operator would be billed for the total number of AUMs called for under his 10-year permit.

I do not feel that the Taylor Grazing Act, would provide for billing the operators on an acreage basis, which acreage was suggested last year at the Council meeting. However, I do feel that a procedure can be worked out which would be within the intent of the Taylor Grazing Act.

As you know, Section 3 of the Taylor Grazing Act states that grazing permits will be issued to qualified applicants. The act not only mentions it once, but several times in the same section, therefore, it is questionable if the Bureau can depart from this procedure without amendment to the act itself. I question whether the livestock industry would want to press at this time any amendments to the Taylor Grazing Act, as this particular act is probably one of the best land use acts which we have in the United States today. The adoption of a special rule has also been suggested to take care of this problem. I question very seriously the advisability of requesting a special rule to cope with problems of this kind. We certainly do not wish to interfere in any way in the managerial ability of the operator in managing his own livestock operation, and by billing him for his total AUMs each year, he would certainly have this freedom of action.

There is one point, however, which I must stress under this type of operation, and that is it will be very important for the operator to

keep very accurate records of the amount of livestock he turns on the range and the exact time they remain on the range in order to tie this actual use in with our range condition and trend studies.

As mentioned by Mr. Brownfield, there is a great need for our district people to spend more time making studies of the range and how they are standing up under drouth conditions and our stocking rates in preference to preparing fee notice sets.

The value of our studies, however, tie in very closely with the use that is being made of our range allotments. This is a service where we can assist the range operator and a service which he cannot afford to ignore if he is truly interested in maintaining his forage reserve.

Our license procedure, as it is today, is not a true picture of the actual grazing being made on these allotments and, therefore, the amending of our billing sets would not materially affect our range studies if we have the cooperation of our permittees.

This is a very controversial subject and I do not feel that we can reach a final conclusion at this time. However, some middle ground can be reached which will be satisfactory, not only to the Bureau but to the stockman as well.

Further Remarks at the Blackboard Using Illustrations: The average grazing capacity of our grazing allotments has always been a matter of judgment and often developed into a matter of controversy. We have probably received more criticism concerning our range surveys and survey methods than any other phase of our range adjudication work.

If it were possible, it would be desirable to have our district managers determine the average grazing capacity after they had the opportunity to observe the range in a drouth year as well as in a high moisture year in order to see the range at both extremes. This would give him a better opportunity to arrive at a fair estimate of a true average than an individual who has only had the opportunity to observe the range at one extreme or another.

There is somewhat of a salesmanship job to do in order to approach an acceptable average grazing capacity with the livestock user. I am sure that if the district manager fully knows his range area and is completely convinced as to what the range is capable of supporting, he will have little trouble in convincing the livestock people to follow a practice where they have all to gain and very little to lose. No livestock operator can afford to overgraze his range.

Once a person has the opportunity to get out and examine the range with the operator, Mr. Brownfield can use his system, Floyd Lee can use his system of one cow per section for every inch of rain and the district manager can use his system. Generally they will come very close

to a desired grazing capacity for an average year.

In examining a ranch unit in Oklahoma it may be interesting for you people to note that in northeastern Oklahoma on good pasture lands, it takes about 8 acres for one cow per year. There was some discussion as to the price of this type of land and it was brought out that this land is now selling for approximately $100 per acre.

Now the total amount of moisture received in any one year is not the whole picture, as there are factors which affect the amount of this moisture which actually reached the plant.

For example:

1. Sandy loam soils absorb moisture much faster than do our heavy clay soils.

2. Moist soils absorb moisture more readily than do very dry soils.

3. A slow drizzle rain can be absorbed in the soil much better than a heavy downpour or cloudburst.

4. The time of year when moisture is received has a bearing on the plant growth.

DISCUSSION

O'CONNELL: I understand the range study was made in Kansas.

JENSEN: That's correct; north Kansas and Oklahoma.

O'CONNELL: Is it a fact that most people who are in the business of leasing lands to cattlemen specify in their contracts that the ranges must be burned before they'll move in their cattle?

JENSEN: I understand in Oklahoma they did some burning. They're not doing as much as they used to, but I assume they do it in Kansas.

LEE: The work we're doing in New Mexico may interest you. The Soil Conservation Service has established a study near Albuquerque in which they're taking grasses from different parts of the range. By selective breeding, they are able to produce seed that will yield ten times the amount of forage formerly produced. Instead of looking to other places for seed we are now doing selective breeding on our own ranges. The improvement is tremendous and will be a great help.

I was asked how I operate. Through selective breeding I have built up my breeding herd. In addition, I keep a band of wethers as a cushion or herd regulator. The wether is an easy keeper and will produce 22 to 26 pounds of wool which at the present price of 62 cents makes them

about as profitable as a ewe and a lamb. In time of drouth I sell the wethers to reduce my herd without damage to my breeding herd which is left intact. In this way I am able to retain my selectively built breeding herd and can quickly rebuild my numbers when range conditions warrant the increase.

HUGHS: Do you think a ten year period is a reasonably short time to improve the range?

JENSEN: It's going to take a long time probably before it will come back. I believe the Forest Service shows that it takes 20 years. We are primarily interested in knowing that the key species are not disappearing.

THE BUREAU POLICY ON GRAZING CAPACITY AS A BASIS FOR ADJUDICATION
(Claire Letson)

We have received suggestions from the field that the topic of grazing capacity as a basis for adjudication be discussed at this meeting. There seems to be some question as to the necessity or validity for a policy of establishing a grazing capacity figure, and also as to the methods by which it is to be obtained.

The 18 sections of the T.G.A. set forth the authorizations and limitations by which the Secretary is to be guided in his efforts to attain the goals as outlined in the purpose of the act.

Section 161.6(e) of the Federal Range Code prescribes the terms and conditions under which licenses and permits will be issued and provides in subparagraph (2) that, "no license or permit will provide for the grazing of livestock on the Federal range during that part or parts of the year for which the Federal range has not been classified as proper for use," and provides further in subparagraph that (3) "no license or permit will confer grazing privileges in excess of the grazing capacity of the Federal range to be used."

Present policy of the Bureau provides that range adjudications will be made in strict compliance with the Taylor Grazing Act and the Federal range Code for grazing districts as interpreted by the Director's and Secretary's decisions and by policy memoranda. The ultimate objectives of range adjudications are to provide for proper use, conservation, and improvement of the Federal range and to stabilize the livestock industry dependent upon it.

In general, an adjudication includes the following major phases in relation to Federal range:

1. The establishment of unit boundaries.

2. The establishment of grazing capacity.

3. The establishment of proper season of use.

4. Segregation of ranges for certain kinds or classes of livestock if required for proper use or orderly administration.

In relation to the base property the major phases of an adjudication include:

1. Determination of priority or dependency by use in AUs and AUMs.

2. Determination of forage production or commensurability of the base properties, land or water.

3. Determination of qualifications of base property for Federal range use (applying the limiting factors of priority or commensurability).

After the above determinations have been made one major step remains in the adjudication that of adjusting the individual qualifications to the available grazing capacity of the range. This may be followed by the issuance of term permits when applicable.

The foregoing phases of adjudication are in various stages of completion in each district. In most cases the priority numbers were determined in the early years shortly after the districts were established. The priorities in AUMs may or may not have been properly determined. In many instances there is still some question about the ownership or control of base properties and their commensurability. But in general, the major phase which has not been completed is the adjustment of grazing privileges to the available grazing capacity of the Federal range.

By memorandum of March 9, 1956, the Director stated the Bureau policy as to the methods to be used in determining grazing capacity of Federal lands.

As a general Bureau objective, an intensive type of range survey will be completed on all BLM rangelands. However, this type of survey will not necessarily be required before adjudication, apportionment of privileges, and proper stocking are completed. The method and intensity of range surveys for range apportionment and proper stocking purposes for each grazing unit shall be determined by the district manager with the approval of the State office using the following criteria or guide lines:

1. The intensive survey methods of acceptable standards in accordance with the BLM manual are: line or plot transect (square foot density), weight-volume estimate, and ocular reconnaisance.

Such surveys will be used:

A. In units where there is a high degree of competition for use, and class 1 demand exceeds the available grazing capacity.

B. In rugged, inaccessible units where it is essential to know topography and unusable areas.

2. Extensive type surveys include general observations by BLM personnel and/or advisory boards, including limited type sampling by any of the intensive methods.

Such methods may be used:

A. In areas where results of intensive surveys on comparable areas can be projected with moderate additional

field work to the areas under study with sufficient accuracy to meet the needs of apportionment and proper stocking.

B. In units where there is little or no competition for grazing use and grazing capacity is generally recognized as exceeding total authorized use.

C. Where there are large and more or less uniform vegetal types.

D. Where knowledge of the areas, past licensed use, actual use records, comparisons of similar areas and general observations can be reliably used as indicators of grazing capacity.

It shall be mandatory that the district manager's actions on grazing capacity estimates be made a matter of official record, together with written record of advisory board recommendations on such estimates. Extensive surveys shall be supported by a brief narrative write-up concerning methods used and other information obtained.

Grazing capacity estimates, whether by intensive or extensive methods, must be kept current by range condition and trend studies, utilization checks, and actual use records.

The use of grazing capacity as a basis for adjudication and initiation of proper use and management of the Federal range is neither recent nor is it novel in the administrative program of the Bureau. Early decisions of the Bureau and the Department recognized that a knowledge of grazing capacity was fundamental to range management. Departmental decision A-21675, R. B. Hackler and Edgar Turney, dated March 24, 1941, instructed that an allotment should be large enough to provide grazing facilities for the number of cattle licensed. The decision further stated that the true carrying capacity should be determined by the grazing service and the allotment increased to cover the license or the license amended to prevent overgrazing. There are numerous decisions dating from 1938 to the present in which the Bureau and the Department have expressed the necessity for a grazing capacity determination, and the part which it plays in the adjudication program.

Grazing capacity is an expression of the current range condition and productivity. Use of the methods outlined earlier for conducting resource surveys provides additional information relating to soil condition, wildlife, multiple-use purposes, and potential values which are considered in an overall range management program.

To divorce range grazing capacity from the adjudication process would not be possible since an adjudication, in effect, is the establishment of a balance between the stocking rate and the grazing capacity. Through the use of this tool we can measure, more precisely than by any other means, the extent of injury to public range lands from overgrazing, the prevention of which is a primary objective of the Taylor Grazing Act.

As an aside comment to the question of grazing capacity you may be interested in the results of work being carried on at the Squaw Butte Harney Experiment Station at Burns, Oregon, and at the U. S. Sheep Experiment Station at DuBois, Idaho.

Range research studies at Squaw Butte have shown that a direct relationship exists between winter precipitation (October to June), spring temperatures (April, May, June), and herbage yields of native and introduced forage plants. A method combining these relationships provides a means by which the district manager can forecast yields for each year and adjust survey data in terms of per cent of normal or median production.

At the DuBois Station (Idaho) studies have been made of the seasonal development and yield of native plants. It has been found that the height of blue bunch wheatgrass is a suitable criterion for establishing the opening of the grazing season. The date at which this grass will attain grazing height can be predicted with suitable accuracy from the mean temperature of the month of March.

DISCUSSION

LEE: What do you mean by the statement that there is doubt as to the ownership or control of base property?

LETSON: Because of the traffic in transfers of base properties, some people have not made proper record of their transactions since the priority period or since the district was established.

ARRIEN: This part strikes home because of the trouble we've been having in Oregon. I'm wondering why the Bureau has failed to recognize, at least to the satisfaction of the permittees, the adverse factors that may occur during a given year of survey. Is there some way, to pick a year that is selective of an average year? In the case of this one unit in Oregon, they underwent every adverse factor that could come along. This included the rodent and mice problem, rabbits, weather, and adverse growing conditions. I think we have a little more work to do to bring about an understanding of the validity of these surveys. I would welcome any further discussion, particularly as to the type of surveys and the kind of year in which you take them.

LETSON: Our surveys are controlled partially by the funds available and the program set up for those funds, by the workload in the district and the stage of progress in adjudication, as well as the growing season and

relative forage productivity. As I stated earlier, the survey data can be adjusted to a normal year by use of the system developed at Squaw Butte.

ARRIEN: On what basis and how do you determine the forage requirement for livestock? We thought we were turning out one cow and the forage requirements were for that cow. We find now that we are also charged for the calf that cow is carrying.

NADEAU: There are different interpretations on that part of the Code; " .....All livestock six months of age or over allowed on the Federal range will be considered at any point of time during the grazing period as a part of the total number for which a license or permit has been issued. No fees will be charged for livestock under six months of age." You could interpret that to mean that if a calf is going to be six months old any time during the grazing season he could be billed for the whole grazing season. In some areas they charge only for those animals which are over six months of age at the beginning of the grazing season. In others a general role of age determination is made on whether the animal has been weaned. If so, it is considered as self-sustaining on the Federal range and subject to being counted as an animal unit or portion thereof. Calves born in February and March are pretty heavy consumers by September or October but they're not included on your billing. This is one place where the billing is considerably out of line with the range carrying capacity. A similar situation has occurred with sheep in figuring five ewes and lambs equal to one animal unit. Formerly, the average range ewe was much smaller, as were the lamb crops. Now with improved breeding and selection the ewes are 30 to 40 pounds heavier and in addition the rancher enjoys as high as a 150% to 160% lamb crop. The amount of feed consumed by one animal unit of sheep has increased considerably over a period of years.

ARRIEN: Can you explain the differentiation between the 500 pound commensurability requirement and the 800 pounds per AUM allowed on range survey?

NADEAU: The fact that we say 500 pounds per AUM, allowance on hay for instance, doesn't necessarily mean that it is exactly right or what people feed. The 500 pounds is a minimum subsistance ration, while the 750 or 800 pounds is considered to be the amount consumed under conditions of free access, or where the forage is available, to maintain good body weight and condition. Morrison's Feeds and Feeding says that 600 pounds is a good average figure to use as a minimum maintenance ration.

We try to give consideration to all the factors. In so doing and allowing that forage will be available to provide the animal with normal consumption under free access conditions, we use a standard figure of 800 pounds. The cow may not actually eat that much, but we have to make that allowance to provide for proper range use.

ARRIEN: Would you explain the surveys where you have given some consideration to the weather factor?

NADEAU: The surveys made in prior years have been resurveyed. The resurveys we have made recently were originally made in above-normal years.

The last year with a moisture deficiency was 1953. Even this last year the weather station at Vale recorded a moisture condition of 120% to 160% of normal. In applying this 12-year formula for correction to a normal year we would have to reduce the survey grazing capacity figure. If we should get a year when precipitation is below normal, and we conducted a survey, we would have to increase the grazing capacity to compensate for the deficient moisture.

DEMING: In connection with the number of pounds for an adequate maintenance ration, the best rule of thumb statement on that was given by the studies of Hart, Guilbert and his co-workers in California. Where they don't convert to total digestible nutrients they use the figure of 3% of the live weight of the animal per head per day. I think Neale in the Southwest has developed about the same figure on pasture studies.

FORAGE RESERVATIONS FOR WILDLIFE IN UNIT ADJUDICATIONS

(JOHN C. SCHARFF)

In range adjudications on grazing units we find game use varies so considerably that it presents an individual problem and many problems in given units. In Oregon Grazing District No. 1 they made an adjudication a number of years ago in an area that harbors one of the most discussed big game herds in the West and a herd that has presented as many problems in its movements and range requirements as any that I know of. In Oregon I think we are fortunate in having an outstanding game administrative body. They were able to get together at the time of this range adjudication and not only make an allowance for the tenth higher unit of range, but also broken down by individual users. Similar consideration has been given in other areas in which I have been associated in grazing administration work.

We used to think that if we had an area on a given range that livestock couldn't utilize, it was a good area to set aside for wildlife. I've seen that happen and heard it discussed in many instances. It has been found that the game use often takes place on the most heavily used livestock areas. In order to properly adjudicate the range, to protect the users as well as to protect the game species, it's necessary to make provision for that use.

Another fortunate thing we have in the State of Oregon is the attitude of our game management agencies toward keeping the herds compatible with the available range. In the case of most herds we have a good record of their movements, area of use, forage requirements, and the seasons normally used. We are able to dovetail this information into range adjudication. It's the objective of the State to have the numbers of any given herd conform with the forage available during the season of greatest shortage. In most cases in eastern Oregon this is the winter range condition. As much of our winter game range is located in areas used by cattle as a summer range, this aspect of big game management presents more problems than do summer ranges. One of the unfortunate things is that we have some game managers who aren't too prone to look at the conditions as they exist. Yet they do yield a lot of influence in our game work. I know that in some areas it is the State's desire that they reduce herds, consistent with the available winter range or spring range as the case may be, still they leave game-livestock problems to the public in setting up seasons and harvest. I think generally that we are improving along that line, but it's a problem that has to be thrashed out to completion.

As we all know, provision is made under the Taylor Grazing Act for wildlife use. I don't believe any of us here feel but that wildlife use is compatible with livestock use when provision is made for both. That is something that should be done at the time of range adjudication. There are many factors which enter into the game management picture, just as there are in the range management picture, such as the mouse infestation in eastern Oregon this year which killed a lot of the better browse plants; plants that in many instances will never be restored. I recall back in 1941 and 1942

we had mouse infestations in the same area which killed large patches of sagebrush that never came back. In our particular area most of the bitterbrush on a wintering ground for about 4,000 deer was killed by mice. What effect that is going to have on the wintering deer and livestock remains to be seen. In all probability we will not be able to give bitterbrush any consideration in the future so far as the wintering of either livestock or game is concerned.

There are a lot of questions, of course, that have come up in connection with our game and livestock management, but most of them can be ironed out at the district level with the State game management officials. Of course, there is always the problem of access to suitable harvesting of these various herds and other kinds of problems that are becoming increasingly important in game management, but generally I believe we've made a very good start in relationships between livestock and game management. Better provision is being made for the care of our big game than in years past.

The total picture seems much brighter. This is especially true where range adjudications are being made or where they have been made in the past.

DISCUSSION

FAULKNER: Do you wildlife people as a rule consult with the district managers in regard to big game harvests?

SCHARFF: Yes, we do in Oregon.

SEELY: In Area 2 we have an Interagency Wildlife Committee organization which is doing very good work in the States of Utah and Idaho. It is composed of individuals from the State Fish and Game Commission, sportsmen's groups, livestock people, and the local land-managing agencies as members of the committee. During late winter and early spring they cooperate in making big game trend counts, gathering information on game range conditions, and the size and condition of the game herds. The State sponsors meetings at various points to consider proper hunting seasons, bag limits, and the nimber of special permits which should be issued. After hearing the views of those concerned, discords are reconciled and final recommendations are made to the State. Sometimes the State follows the recommendations of the interagency committee and sometimes they don't. However, there is a willingness and an endeavor on the part of the committee and the States to determine how much game we will support on the various ranges, and to hold the big game numbers within the limitations of the forage which is available.

NOBLE: We don't have many wildlife problems in our country. Some ten years ago we started in the State of Wyoming to work with the Bureau of Land Management, Forest Service, Park Service, Game Department, Woolgrowers, Cattlegrowers, and others concerned. We decided on the number of elk, deer, and antelope we had at that time. We then figured out about how much browse feed we had and what the grazing capacity of the country

would be for big game. We determined from that the total numbers which we could support and it's working out pretty well.

KNAGGE: I have a copy of a letter directed to Mr. Arthur D. Smith, Professor of Range Management at the University of Utah, from the Director of the Game and Fish Department of Arizona. Mr. Smith was concerned with the Bureau's wildlife practices. I think it would be very interesting to this group to hear what his questions were and the answers given by Mr. Omar Harrington of the Lands Division of the Game and Fish Department of Arizona. The first question concerning the administration of Federal land, (1)"The Taylor Grazing Act was an act primarily to regulate livestock use on public range, how well has this objective been reached?" Mr. Harrington's answer is that, "We feel BLM has made great strides in some areas toward regulating the livestock use of the range resource. In other areas where opposition has been encountered, the accomplishments are less evidenced. In drouth years in Arizona overgrazing is still a problem just about everywhere. The BLM approach has been one of education and encouragement which is about all they can do under the Taylor Grazing Act, as I see it."

Now for question (2), "To what extent have uses other than the regulating of grazing been given consideration? Has there been any material progress of multiple use administration by the BLM?" Mr. Harrington's answer is; "BLM in Arizona recognizes multiple-use policy and we feel that we are doing all we can under the law whenever the opportunity arises. There is an increased concern for range improvements such as unit control, predator and rodent control. We are enclosing a memorandum from the regional director which indicates concern over wildlife use. The Arizona State Supervisor has been very cooperative in any need for recreational use as supplied by law and departmental policy." (3) "Have there been personnel assigned special duties in associated fields such as game management or recreation?" The answer is; "Not full time, although various members of the State and district offices have devoted time to game management and recreational considerations." (4) "In your opinion can the field then achieve a satisfactory level of multiple-use administration under existing statutory provisions?" The answer; "We're not in a position to give a legal interpretation of statutory provision. And from the variety of opinions that have been rendered by the Department of the Interior Solicitors in the past, we felt that the Secretary of the Interior is exerting all the power he has in control of the BLM lands. It seems quite obvious to us the Department of the Interior policy decisions in the past two or three years have given a broad interpretation of the law which permits greater application of multiple-use principles. We might refer you to the Bureau of Land Management recreation land use policy statement approved by Secretary Seaton on April 16, 1958." (5) "What specific programs sponsored or permitted by the BLM have had ill effects on land uses such as hunting or other forms of recreation? Are there instances in which such decisions had a positive value?" The answer;"We cannot think of any BLM program which has had ill effects on hunting and recreation except the inability of some areas to control grazing permittees. There are instances of positive value; such as rodent control work in several areas of the State, the construction of large dams and spreader dams which aid in the control and improvement of wildlife. There have been instances where the Arizona State office being aware of the recreation value

of land under public exchange has given it consideration. We have been given the opportunity to consider the preventing of passage of lands into private ownership. Implementation of the recreational policies have been mentioned above." (6) "To what extent is access to public land for recreation or hunting denied the general public, or is there lack of suitable access roads or other hindrances?" The answer; "New roads and improved roads are needed for public access on BLM lands in many areas. The BLM has encouraged retaining prevention of the closure of existing roads." (7) "Are there areas of land under jurisdiction of BLM which are receiving appreciable recreational uses?" Have any steps been taken to provide facilities for supervision on these areas?" The answer; "Some places, particularly in the northeastern part of the State, with areas for fish control in part of BLM lands. That agency has not taken steps to provide the facilities for supervision of the resource. Actually they are not needed." (8) "To what extent does the wildlife representative on the advisory boards for grazing districts influence administration studies on BLM?" The answer; "This depends entirely upon the approach and aggressiveness of the representatives. We would say some of the wildlife representatives have been very helpful although district law does not give them that legal power." And (9) "Are these wildlife representatives members of game or conservation departments or are they from sportsmens' clubs?" The answer; "From sportsmens' clubs, not game departments." I'd like to say that I've found the BLM people in Arizona very receptive to the suggestion of the wildlife people. I feel that wildlife interests in Arizona have not been as forward as they should have been in dealing with the BLM and cooperating with them. I think that we're getting results and the Director has assured me that hereafter when they have their game setting seasons, usually in the month of June, there will be provision for representation by the Bureau of Land Management people. In regard to the access roads mentioned here, I'm sure that there are tremendous areas in Arizona that are not accessible to hunting and fishing because of the lack of access roads. In regard to forage programs in Arizona our deer herds are increasing by leaps and bounds. We are killing more deer now that they did 15 years ago. Because there was no game in certain areas 15 years ago is no reason to believe that 10 or 15 years in the future won't find game in the area. Our game has increased tremendously in Arizona with available forage. Where they have built stock tanks and provided windmills and gasoline engines to pump water, many of our desert areas are increasing tremendously in wildlife habitat potential.

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ORGANIZATION AND OPERATION OF
SOIL CONSERVATION DISTRICTS
(W. A. WILLIAMS)
(SOIL CONSERVATION SERVICE)

I want to thank the Council again for the invitation to be with you people. I would like to explain a little bit about the Soil Conservation District set up. Some 20 years ago, in New Mexico, an act was passed which allowed us to voluntarily form Soil Conservation Districts. The farmers and ranchers signed a petition which was presented to the State Soil Conservation Committee for their action, and on acceptance by the State Soil Conservation Districts, the same people elected a board of supervisors. New Mexico had five members to look after the soil conservation problems within their given area. Each district was a legal subdivision of the State, and each Board consisted of unpaid people interested in doing a job for their communities. After the individual soil conservation districts were created, we formed state associations and subsequently a national association.

Naturally, in forming our different committees in the Western States, the Public Lands Committee is one of the most important, because our entire economic structure is built on the care, or proper use, of our public lands. In 1952 the Public Lands Committee decided to initiate a pilot district program, coordinated with land use programs in each of the eleven Western States. With that program we attempted to, and in most cases have had very good success in, formulating a land use program which brought the Federal land administering agency into the overall district plan in the same way that an individual cooperates with the district in doing a job on his private lands. And as I said, the use of our private lands depends on the care of these public lands. In formulating this program we called for and received the assistance of BLM, Forest Service, Fish and Wildlife Service, as well as SCS, who are designated to help us in our technical work. The cooperation we received was really outstanding. We went in and did what we could within the limitations of the resources of the various agencies to do a job within these areas. In my own area we did a good many things, one of which was the adoption of trespass laws. The results achieved from that one project are well worth mentioning. It is an area that is very dry, consequently we do not have too much growth of grass and plants that livestock will eat. We took 350 trespass horses off this area and within two or three years, during the worst drouth we've ever experienced, we saw grass coming back,; we saw it growing into the bottom of crater cuts, the raw cuts of erosion. We went to the mouth of one erosion cut which was affected more than the others, and found that it had decreased in four years of drouth from approximately 300 yards south of the Rio Grande River down to 75 feet. And since we have had rain for the last couple of years it is still small, with very little erosion. The grass is holding. As Mr. Woozley told you, in New Mexico practically all the range is now in individual allotments. As the result of the exclusion of trespass horses they are today reaping the benefits of controlled grazing in this same area.

Now then, we run into the problem of insufficient funds as did the various land-administering agencies to do the overall job. We thought that at first we could get special funds, but about this time the small

watershed projects began developing under Public Law 566 and we thought, we can go in and do the whole job here, but we find that because of the interagency criteria, it's impossible to do the whole job and in many cases even a small part of it in these districts or in these watersheds. We have one watershed project in my home district which is approved. When the project was finally planned and we got down to final approval, we found that we did only 40% of the total job. Now that leaves quite a gap. We need a tremendous lot of assistance yet to go in and complete it. As I said, we are taking advantage of all the current funds available to do the work in this area. I understand the States are also doing this. We are at the present time exploring the possibility in New Mexico of starting conservation work camps. By cooperative agreement with the State Penitentiary we would take minor offenders from the penitentiary and by putting them in these work camps, complete a conservation job.

Now we've gone one step further, when we speak of conservation I think perhaps we need a little definition of it. Conservation actually is the orderly development of resources within any given boundaries. You don't get anyone to do a conservation job for posterity. You get him to do a conservation job because it's orderly development and it puts money in his pocket. Now then, in adding to this coordinated land use program, would it not be logical to take in the other aspects of the overall development and do it all in an orderly manner; the development of a recreational resource, sportsmens' interests, the development that is necessary in setting up State powers, and doing the work on State forest lands as well as the federally controlled lands. We're all vitally concerned and I know we all like the privilege of working with you and helping where we can. Our objective is the same and we would like your assistance where you can aid us in our program.

SOIL CONSERVATION DISTRICT OPERATIONS IN NEVADA
(ALBERT ROMEO)
(SOIL CONSERVATION SERVICE)

I'd like to thank Mr. Woozley and the group here for having the privilege of being invited to attend this meeting. I've had the privilege of serving on the advisory board but I've never had the privilege of serving on the National Advisory Board Council. It's gratifying to think that I was the one chosen to sit in with you people.

Mr. Williams mentioned our pilot district. I think Nevada was one of the first to have a pilot district, or coordinated land use policy, and I think it's an example of what can be done by getting the agencies and interested wildlife and sportsmens' groups together. I think that our problems are mutual; we have everything in common, both from the standpoint of the livestock operator as a soil conservation representative, as well as in the field of fish and wildlife. I think what is good for the livestock people and their conservation work and orderly improvement of our Federal ranges is good for fish and wildlife people. Whenever we go out to develop the Federal ranges in any manner, whether it's through reseeding, proper distribution of livestock or some other land treatment, fish and wildlife are certainly going to benefit by it. We opposed the Wilderness Bill because primarily it's against our policy. We believe in multiple-use of the Federal range; we think the best conservation can be obtained by the present use for the good of the most people. The Wilderness Bill, of course, does not do that. We don't want to propose any more land administering agencies; we feel that the ones we have are doing an adequate job because of their policy on multiple use, which we think is sufficient. The Wilderness Bill will create a new board. We think we're doing a good job as it is. I certainly hope that in the future, as our problems I know are parallel to yours, we can work together hand in hand because of our common goals. We feel that the technicians and wildlife people understand the problems in conservation and know what it takes to sustain life for deer herds as well as cattle. In the State of Nevada we have a Big Game Commission which controls the hunting and regulations for deer and wildlife. I think in order to get anything on a firm basis it must be dealt with through the Commission. They are the ones who have the power; they are the ones who instruct the fish and wildlife people on what they want. If we can get the cooperation of the Commission, I believe there is going to be a lot of progress. Some of you have seen the picture, "Grass the Elko Way". I think it's an example of what can be done by the three of us who have a common goal.

DISCUSSION

FAULKNER: Do the Soil Conservation District people go on the public land with just as many rights as the BLM and establish reseedings, construct fences, and other range improvements?

ROMEO: No, we are there for the purpose of coordinating the work, bringing the various agencies together to do an overall conservation job, both on the private lands as well as the public lands. We, ourselves, are merely farmers

and ranchers and all we're trying to accomplish is what is good for most of the people. Of course, in Nevada the land is some 80% federally owned. So, if we can increase the value of the Federal lands by increasing the grazing capacity for livestock and do away with reductions, we will strengthen our tax structure. Of course our taxes are on the cattle using the Federal range.

WILLIAMS: I think I may clarify this by saying that we consider a Federal land-administering agency in the same way as we do a private land owner. The Federal land-administering agencies have money to work with and they furnish their own technical assistants. When Soil Conservation Districts were first set up there was a great deal of misunderstanding. The Soil Conservation Service has the assignment of helping districts where they ask for it. But Soil Conservation Districts are set up so that they may call for the assistance of BLM, the Forest Service or any other agency which may assist in the overall district plan.

THE EFFECT OF DESERT LAND APPLICATION ALLOWANCES AND SECTION 8 EXCHANGE ON RANGE USE AND ADJUDICATION
(CHESLEY P. SEELY)

The subject I have been requested to discuss here today is the effect of desert land application allowances and section 8 exchanges on range use and adjudication. It's needless to say that portions of land disposed of from the range area has some effect on the use of the range and adjudications. Naturally as a result, it sometimes brings about problems which are quite difficult to solve. This is in no way a reflection on the desert land entry, or as to its being classified for higher uses, when that is the case. There are certain things about the desert land application which as a result of its filing creates a different problem in each of the various States. In order to give you a quick insight on the matter I'll read from a request that was made of the State Supervisor in Nevada asking that this matter be discussed at the National Advisory Council.

During the last year there has been a very great interest in the State of Nevada in desert land filings and in Section 8 exchanges. A number of desert land filings are on crested wheatgrass seedings that are important to range management and a number of the better range areas are being filed on also. In many instances the filings are made through land locators and the applicant has no information as to what it takes to develop an irrigated desert land entry. There is a great deal of speculation in these filings and many of the entrymen in the past have destroyed the native vegetation and then later learned that it was infeasible to try to develop an irrigation farm unit. In the meantime they have subjected the 320 acre area to severe wind erosion and, of course, completely destroyed any grazing capacity that was previously there. Recently the Director's office has issued instructions which we believe will be helpful in preventing speculation by desert land locators in Nevada, but there is probably a need for some regulations by the Secretary.

"The Section 8 exchanges have been more of a problem as far as game use is concerned. The State Fish and Game Commission has advised us that they are very much concerned about the large exchange. They believe that the selected lands have blocked out a choice summer deer range. The owner has fenced the area and prohibited hunting and fishing in what was previously a popular hunting area.

"A second, more recent and smaller land exchange by the same party has blocked out all Federal lands along Tabor Creek, a choice fishing stream. Apparently fishing is now being prohibited in this area.

"The State Fish and Game Commission feels that they should be notified of such exchanges and given the opportunity to protest when they feel it is justified.

"We realize that all of these matters should be considered when the exchange is made because the public interest could be better served by making the exchange. We think we can do quite a bit in a better review of

these exchange applications to eliminate some of these problems; however, the problem may warrant discussion by the National Council."

I have reviewed several reports and tried to obtain additional information on this subject. As a result, you have been handed two tabulations. Table #1 is a Grand Summary of Land Application and Patents in Nevada, from 1877 to 1958 (See Appendix B). Table #2 is a Grand Summary of the Pittman Act Applications and Patents in Nevada from 1919 to 1958 (See Appendix C). The Desert Land Act provides in all States that people can file on 320 acres, and by developing water and improving the land acquire title. Nevada differs from all other States in that the applicant is not required to be a citizen of the State of Nevada. That was the amendment to the Desert Land Act in 1891. The purpose of the amendment at that time was, I understand, to encourage applicants from the outside to come in and develop the land in Nevada. The Pittman Act which was solely for the State of Nevada, provides that you can file on an area up to four sections. You can explore for water on those sections. It requires, however that you can't take or use for a source of water to irrigate any known water supply or any known underground hole. It is necessary that it be entirely in a new area of water development. The problem, as the Director explained this morning, is that land speculators are making a business of encouraging people to file on these lands in Nevada who have never been in Nevada, possibly don't know what the lands are like, or don't realize what they have to go through to obtain patent.

There has been a study made in Nevada by the BLM, the State Division of Conservation, the University of Nevada, the State Department of Conservation of Natural Resources, Soil Conservation Service, and the Agricultural Research Service. I would like to read some of the points made in Chamburger's interim report, as a result of this study.

"The extremely low degree of success revealed in Table #2 for both resident and nonresident applicants under the Pittman Act, is convincing evidence of the overall ineffectiveness of this act in bringing Nevada's potentially irrigable lands under development. With only three economic unit farms developed from 2,619 applications after 39 years of operation, there seems little argument for keeping this act on the books. It is noteworthy also that although 70% of all applications have been by nonresidents, and nearly 60% of all patents have been obtained by residents, only one economic farm has been developed by a nonresident applicant. On the basis of this showing, the nonresident clause of the Pittman Act might be said to have served chiefly to demonstrate beyond all doubt the ineffectiveness of the act for the purpose intended."

I read this in order to bring up the problem, as to what is happening in Nevada. This Committee is trying to determine the proper thing to do in this respect. We try to work out allotments; however, no individual wants an allotment on which there are a lot of land applications.

I have another letter from the State Supervisor in Nevada to the State Advisory Board which brings out this point. "We are generally very concerned about the number of desert land, homestead and Pittman Act filings

that have been made in 1958 and in the last few months. It is apparent that a number of filings have been made by locators who are primarily interested in obtaining fees for this service. A good many of the agricultural applicants have no knowledge of the land or of the requirement for developing an agricultural homestead in the State of Nevada. During the current year 1,658 new applications were received embracing close to 1-1/2 million acres of land." I'm told that these locators are charging applicants from $1 to $10 an acre to find a suitable area and file an application for them. A number of these filings have been made on our crested wheatgrass seedings and other important range areas. The experience of the past has shown that most of the entrymen destroy the native vegetation and then decide that the cost of obtaining water and developing the farm unit was not feasible in the first place. This leaves the area exposed to rapid invasion by halogeton and a hazard from wind erosion. The State real estate board, woolgrowers, cattle growers and the Soil Conservation District Association have passed a resolution which generally suggests that the entrymen not be allowed to destroy the native vegetation until he has proven that a suitable supply of water is available.

This statement points up another problem resulting from desert land filings. I don't think anyone in Nevada is taking exception to the Desert Land Act or possibly the intent of the Pittman Act to use property. But to review the results over the past, Table #1 shows that since the beginning of the Desert Land Act, from 1877 to 1910, 544 applications were made and 187 patents were obtained. Sixty-five per cent were cancelled. From 1911 to 1920 there were 1,617 of which 316 were allowed. Out of the total of 621 that have been patented in the State of Nevada since 1877, 503 were before 1920, which I think is natural as there was more land available at that time, and the State was largely undeveloped. Some of these patents from 1920 down to 1958 may have been applications filed prior to that time. You will notice in the footnotes that 45.3% or 2,631 applications were filed by nonresidents. Patents obtained on nonresident entry amounted to only 17 out of that 2,631. Then you get down to per cent of nonresident entries obtaining patents, .64 of one per cent. I bring this out on the basis of these two acts to show what we're confronted with. I don't think there's anyone in Nevada or elsewhere taking issue with lands that should rightfully go into Agriculture and be developed into higher use. I think there is a requirement necessary during the period of the application which would prevent removing the vegetation or interfering with the use presently being made of the land until they have proven they have water.

We who are working in Range Management, trying to clear up the grazing problem, trying to manage the area, are having a difficult time. It has been suggested that certain corrections or adjustments could be made that would not be disturbing to the operator and would bring about a more orderly adjustment in the grazing use. I think the first one could be an amendment of the Desert Land Act to limit applications in Nevada to residents of Nevada. Some think it's possible to limit the Pittman Act to residents from Nevada. There are others who feel that the act should be repealed entirely. As to the removal of vegetation, there seems to be a general feeling that there should be some way by which the applicant could do his work without destroying the vegetation until he has sufficient

water to irrigate the area. Some feel that the applicant should not be allowed to occupy reseeded areas until they have developed the water. Another suggestion is that the moratorium giving relief from doing assessment work until March not be extended. Formerly, when the time expired for making final proof they were given a four-year moratorium. Accordingly, many applications have been filed and, of course, no attempt has been made to do anything more with them during this moratorium. So that extends the time in trying to settle some of these other uses.

I think the State of Idaho can show that some very good units have been developed. They've taken advantage of the Desert Land Act and developed a number of worthy farms. The question that has been raised in Idaho is in connection with land entries which have been filed on reseedings. In adjusting the grazing capacity in the State of Idaho they've shifted livestock from heavily grazed areas into some of the reseeded areas. As a result, the overused areas are relieved and large reductions are no longer a necessity. Some of these lands are going into desert land entries. They feel that it is creating our problem all over again and it's going to result in major reductions due to the withdrawal of these lands.

I would like to read the following report from Arizona which conveys the problem as far as that State is concerned.

"In Arizona, practically all the public domain lands within districts have been adjudicated and are now within individual grazing allotments. Essentially all public domain lands outside grazing districts have been leased under section 15. Every disposal, therefore, has an effect on one or more individual livestock operators rather than on groups of operators in community allotments such as those found in many of the other Western States. This situation results in usually a weak and ineffective fight on the part of the range user against the disposal action. Those most seriously affected are ranching units adjacent or near centers of population and those located in the broad valleys or floodplain areas where supplies of underground water have been discovered. In the latter case a few ranches have been completely wiped out or the ranch unit reduced in size to such an extent that it is no longer an economic unit, nor does it have any prospective sale value. In some instances stock waters have been completely isolated, which has made a portion of the ranch units unusable from a livestock standpoint and has seriously reduced the overall ranch value. Since range lines have been agreed upon or have been established for many years there is no way for an individual to acquire additional Federal range privileges except by buying someone out. Since State lands in these same areas are also being sold or the leases converted from grazing to agricultural leases, the rancher loses everything, except the small reimbursement received for loss of range improvements.

Disposals have also cost the range users, as well as the Bureau, considerable sums of money to replace or move range improvements. For example, on the Black Canyon Highway, north of Phoenix, boundary fences have been moved twice since 1950 due to extension of small tract areas. Movement or abandonment of the same fences will again become necessary as further extensions are made to accommodate small tract classifications.

On most sales, or disposals, the Government is reimbursed for the value of the improvements to the extent of Federal funds involved, but BLM does not get the money. Since funds used in construction of the improvement are usually RI funds, it appears that this money should be returned to be expended on additional range improvements since section 3 of the Taylor Grazing Act specifies that "... a range-improvement fee which, when appropriated by the Congress, shall be available until expended solely for the construction, purchase, or maintenance of range improvements. ..."

By January 1959 there were pending in the Arizona land office 394 public sale applications, 312 State selection applications, 99 private exchange applications, and over 1,700 small tract applications. At the end of that month there were a total of 2,934 applications for land, ranging from 2-1/2 acres or 5 acres to many thousands of acres. The rapidly increasing population of Arizona, which creates a legitimate demand for land, coupled with high pressure speculative promotion, has sky-rocketed land prices far beyond the reach of the average rancher and far beyond the productive value of the land for grazing.

Applications for public sale of land under section 14 of the Taylor Grazing Act are being received in great numbers. The act permits sale of isolated tracts of 1,520 acres or less on application of any individual. Land speculators are constantly examining BLM records to locate tracts available for such disposal. The act provides a preference to adjoining owners to purchase the land at the highest bid or at three times the appraised value, whichever is less. In many cases, however, the rancher within whose grazing operation the land is located, is not an owner of adjoining land or, if he is, the prices are far beyond the economic value of the land for grazing use. If more than one adjoining owner asserts preference right of purchase, we are required by the regulations to make a division of the lands. Recently the speculators have adopted the practice of purchasing a small tract of 2-1/2 or 5 acres adjoining the lands to be sold thereby gaining a preference and demanding an equal share of the land sold. The public sale actually is becoming a serious menace to ranchers in the section 15 areas where the Federal lands are often isolated tracts or 1,520 acres or less, and also in the railroad grant areas within districts where the alternating checkerboard sections constitute isolated tracts, such as Mohave County, Arizona. The ranchers are proposing private exchanges under section 8 of the Taylor Grazing Act which will consolidate the private land and the Federal lands within the individual allotments, thus eliminating possibility of public sale.

About three years ago, due to promotional activity, large numbers of private exchange applications were filed in Arizona in which the lands offered were purchased from ranchers in the checkerboard railroad grant areas and the lands selected were located in the vicinity of the fast growing cities and communities. A few of these exchanges were approved but most were rejected because the value of the selected land greatly exceeded the value of the offered land. Where the exchanges were consummated, the rancher who initially sells his private holdings to the exchange speculator finds himself with a grazing allotment which is practically 100% public domain and he discoveres that banks and lending agencies are very hesitant to grant loans on such operations.

In prior years stock driveways were established throughout various parts of the State, some of them quite near communities which later have greatly developed and expanded. The public lands adjoining these driveways have been disposed of and now there is tremendous pressure for disposal of the driveway lands. This pressure has been successfully resisted so long as the continued use and need can be shown for the driveway. However, as the use for livestock diminishes, it will be necessary to reclassify the land for disposal.

In a number of cases land disposal through private exchange and public sale has made it necessary to completely revise range management and S&M conservation plans. The rapid changes in land ownership also requires an increasing proportion of the time of district personnel to maintain correct status records, correct percentage of Federal range use, and correct fee billings.

The following is cited as an example of the promotional activity now in progress in this State: A rancher in the central part of Mohave County, in about 1950, purchased the checkerboard railroad lands from the railroad company at prices ranging from about 50 cents to $1 per acre. In 1958, the ranch was purchased by a promotor at an average price of $6 per acre. The promotor has subdivided the more level privately owned sections which are checkerboarded with Federal land and through a well organized sales campaign is selling these lands in parcels of five acres for $595. The only improvement made by the promotor is a survey which establishes two corner posts on each five acre tract and access roads which are bladed out through the brush and sand. Apparently the promotion is highly successful even though similar lands can be purchased in the adjoining area at a much smaller price. If any development takes place on these patented lands, the intervening Federal sections become valueless for grazing purposes.

By this report I am not inferring by any means that the Desert Land Act is wrong, or that anyone is mishandling it. I think there are a number of things here that need consideration and possibly some directive measures can be devised by which the speculative end of it can be corrected.

There was one other suggestion advanced to me. Possibly no desert land application should be allowed during the time the applicant is not required to do any work on the entry.

DISCUSSION

VAUGHT: We have a problem in Idaho with the desert land entries. In an attempt to suggest something that would correct the problem, we passed a resolution by the State Board which I would like to read, with your permission. "Be it resolved that the Desert Land Act be amended so that it will provide that Desert land entries to be irrigated from sources of underground water shall not be allowed until sufficient water is developed on the proposed entry to irrigate and reclaim all of the irrigable portion of the land." We believe this change will give the Bureau of Land Management relief until such time as the applicant has ample water. I move the

adoption of that resolution by this body.

LEE: Shouldn't we leave those resolutions to our business sessions? I'm very much for the resolution but I was just wondering about the way it should come.

VAUGHT: If the Chairman prefers it that way I will withdraw the motion until that time.

The same resolution came out of Nevada excluding, "that all lands be irrigable." We certainly don't want to feel that we are interfering with the development of our State. We feel that the regulations of the Desert Land Act are good, but we do think they should have some conclusive proof first of the development of water.

WOOZLEY: I know the time is pretty well spent. Ches did a very fine job of pointing out some of the difficulties. I think though, in fairness, we should explain some of the things that are being done. As you know, these are laws that are presently on the books. We are trying to implement and work with the laws, not in any sense to sidestep them. Now on this moratorium which expires March 1, no desert land entries which were not filed previous to the time this law was passed, obtained the advantages of the three-year moratorium. It only applied for those which had been allowed previous to the time the law was passed. That will expire on the first of March unless somebody gets an amendment to prolong it.

As far as the problem in Idaho is concerned, I'm sure it's true in other States. We are presently allowing persons under special land use permits to go in and drill for water, and if they find water we allow the entry, and let them have the four years to develop it. We can't do that in Nevada because of the Pittman Act. The State legislature in Nevada has introduced a resolution memorializing Congress to amend the Pittman Act or amend the Desert Land Act requiring that a person must be a resident of Nevada to qualify for an entry, and also that he may not file on more than 320 acres. On some of these exchanges it' difficult to determine just what the implications are going to be, but in Nevada, for example, the Howard Hughs exchange didn't work out. It was a big exchange involving offered lands in the northern part and selected lands in and around Las Vegas for a defense installation. The war ended and the exchange was not necessary, but the Curtis Wright Exchange above Reno is, as I understand it, going to bring a lot of people into the area and is going to develop Nevada. I believe it is in the public interest, and we must recognize that we will have to adjust to some of their operations.

I'd like to ask you, how did you get your land? You got it because there were land laws. You may not have homesteaded or got a desert land entry, but your father or somebody did.

I think another fact is that the land needs in the west are tremendous. People are moving out there by the millions. We have to find places for them and adjust our operations to meet those needs. It's true, it may take some of our seeded areas. It may take some of the areas on

which we have other improvements but in all fairness we have to look at the overall picture. We're going to have people who will strengthen the markets. Markets are one of the things we need, and it seems to me that when we have new people come in, we have increased employment, increased demand for our products, that compensates somewhat for the loss we suffer in certain of our grazing operations. So let's look at this thing fairly. Let's not say in effect that we think that because we have done thus and so in the past, it must stay that way.

I might remind you that this spot right here that we're sitting on now is a multi-million dollar building. It was at one time used by the Indians in hunting deer and possibly they would have liked to have kept it that way. I think we're going to have to produce more on an acreage than we have, and recognize that some of these acres are going to go to a higher use. We don't want you to think we're opposed to the land laws. There are certain amendments that are needed. I think that it's a very good idea to see that nobody goes out and destroys the vegetative cover before he finds out whether there is water available.

I also think that we're using exchanges for purposes for which the Exchange Act was never intended. I think exchanges were primarily intended so that the person having land intermingled with Federal land could exchange it for the mutual benefit of the Federal administration and the person involved. I don't think that it was ever intended for people up in Mohave County to purchase railroad land, then go down and exchange it for land around Tucson and Phoenix. As I told you this morning, exchanges are even considered along the B & O canal for lands out in Arizona. We want to look at it realistically but let's be careful about criticizing or condemning the present land laws. Let's see if we can find a way to work with them and still put these lands to higher use. I think Ches did a very fine job of pointing out the difficulties, but I don't think it is quite as dark as the picture might look to you. It's going to be a long while before any appreciable amount of these acres are going to be taken off the rolls. I've been here six years, and I don't think there have been 700,000 acres of this 180 million acres patented in six years. Sometimes there are tracts we would prefer to keep, and we're trying to recognize whether or not they are key tracts. If they are, we are not going to let them go under the land laws because a key tract sometimes may be the point that determines the wide use of several thousand acres. We are trying to do this taking into account the balanced program with which we have to operate. Your primary interest is in range matters, but I know you are also interested in the overall economic development of the West. We're going to lose some of these lands that are going to be under private ownership. We have to learn to adjust ourselves to changing times.

BROWNFIELD: We'll adjourn until 9:30 in the morning.

Wednesday, February 25

Acting Chairman Dan H. Hughes, presiding

The first thing on the agenda this morning is the discussion of the proposed Federal Range Code revisions by Mr. Kerr.

PROPOSED FEDERAL RANGE CODE REVISIONS
(GERALD M. KERR)

Following the discussions of the proposed revisions of the Code before the State Supervisors and Area Administrators last October, the changes were put in shape and distributed under date of October 22, 1958, to the members of the grazing district advisory boards for their recommendation. This procedure is, of course, in accord with section 18 of the Taylor Grazing Act with which you are familiar. Unfortunately we have not received from all of the districts and State offices the recommendations of the different boards. We have quite a number of them in the summarization that I'm going to give to you now. We have recommendations from 32 or 33 grazing district boards. They may be representative of the remaining boards, but of course may also be different. Our tabulations show that for the definition of "adjudication of grazing privileges" which would be 161.2(r) at the end of the group of suggested changes, 23 of the district boards approved, three proposed certain revisions, and one proposed rejection. In explanation of that rejection I might say that the Oregon District #6 Board rejected everything. On the first page of the proposed revisions, section 161.6(e)(3) is an amendment which is conditional upon the adoption of amendment 161.6(f)(3). Twenty of the boards approved this proposed change, two proposed revision, and two didn't like it. (See Appendix D)

STRINGHAM: Jerry, haven't you some State Advisory Board recommendations where the whole State got together, like Utah for instance?

KERR: We have recommendations that the State boards adopted but the recommendations of the district boards are the ones that I tabulated. I didn't include the State boards. Some of the State boards differed from the individual district boards. I found that in Wyoming.

STRINGHAM: That's true, Jerry, but all the district boards got together and made a State recommendation. Why would you take up individual boards when the State all got together and made a State recommendation?

KERR: Well, if all members of the district boards were at the State meeting that would be fine.

McKnight: We just had two members from each district board.

KERR: That was my understanding, that it was the usual State board.

STRINGHAM: We took the recommendations from each district and boiled them down in the State meeting and took what the majority proposed. All boards

agreed in the State of Utah.

HUGHES: Jerry has the tabulation here for grazing districts and he'll have to proceed on that basis.

HAY: Jerry, I'd like to make a suggestion that in view of the fact that the adoption of 161.6(e)(3) depends on other sections, we go ahead and consider those other sections first.

KERR: Fine. If you don't mind my giving you these overall tabulations, I'll proceed with the summary of each section and then we'll come back and follow whatever plan you propose, if that's agreeable. All right on 161.6(e)(13)(ii) the proposal shown on the bottom of the first page of the proposed revisions was drawn up by a committee designated by the Chairman last year. On that one, 5 approved, 6 suggested revisions, and 10 rejected. Section 161.6(f)(1)(ii) on page 2 received consideration as follows: 22 recommended approval, 2 proposed certain revisions, and 5 recommended rejection. Other votes were as follows:

Section	Approved	Revisions	Rejection
161.6(f)(3)	14	15	3
161.6(f)(4)	18	8	5
161.6(f)(5)	20	4	6
161.6(f)(6)	18	7	4
161.6(g)(1)	5	3	2
161.6(g)(2)(i)	26	2	3
161.6(g)(2)(ii)	21	5	5
161.6(g)(2)(iii)	14	9	9
161.6(g)(2)(iv)	7	9	14
161.8(d)	19	9	2
161.8(e)	14	9	9
161.9(a)(4)	30	2	1
161.9(b)	29	-	1
161.9(c)	30	-	1
161.12(c)(2)	17	9	3
161.12(c)(2)(i)	22	6	3
161.12(c)(2)(ii)	22	6	3
161.12(c)(3)	21	2	2
161.12(d)	24	6	2
161.17(a)	28	-	1
161.17(c)	28	-	1

Now, how do you want to proceed from here?

HAY: Mr. Chairman, I would like to start with page 8 of the Code, or with 161.6(e)(13) on page 2 of proposed changes. In our State board meeting we felt that we should adopt 13 (i) as proposed and also that (13)(ii) should be retained in the Code as published on November 1, 1958, in which the word "readjudication" was changed to "adjustment." As 13 (i) is written this adjudication problem has been pretty well disposed of. We also recognize situations where the Department might have to make an

adjustment. A year ago the reason we used the word "adjustment" instead of "readjudication" was that we wanted the Department to have that right so they would not have to readjudicate the range. I move that our State recommendation of retaining 13(ii) published November 1, 1958, and adopting 13(i) as proposed be accepted.

HUGHES: Do we have a second to John's motion.

_____: I will second it.

VAUGHT: I carried the ball here last year to some degree in trying to get this proposed change written into the Code which would in effect put a statute of limitation against the government. At our local board meeting and our State board meeting we recommended some additional changes for three different reasons. I would like to explain those reasons to you here before we let this come to a vote. As the Code is now written and if you will refer to page 8, 13(i) says "no readjudication of any license or permit, including free use license, will be made on the claim of any applicant or intervenor ....." We want that revision in there, we think it's sound and should be there. As we have been going along from year to year, we have been in the process of adjudicating. We've established a man's qualification and what his base property is qualified for. In Idaho's and a good many other districts we haven't gotten to the final adjudication yet. But we have made certain steps in adjudication. Now as we would interpret the proposed section 13(i) for a three-year period following final adjudication the bars would be thrown down so an intervenor could come in and question the rights that we have established in the past. We've opened the door for an intervenor for a three-year period if we follow the proposal. Now we have the door shut, with what was in the Code originally. But if we adopt this we throw the door open at the final adjudication. I hope I'm making my point clear because we think it's quite important. I'm referring to the wording that the Bureau has recommended in which 13(i) would replace 13(i) and 13(ii). They leave out the words "intervenor" and "Bureau" and just say there will be no readjucication; but they leave the bars open for a three-year period so an intervenor or the Bureau might come in and question what we have done.

HAY: I think, Mr. Vaught, that 13(i) is stronger than what you are seeking.

VAUGHT: Well, we have something that we're seeking in Idaho which is stronger than either one, as far as that is concerned. I'm trying to make it clear as to why we recommended the change. I wanted the attorney's opinion on whether our thinking was right on this.

HUGHES: Let's see if we all understand you. As I get it, the point now is that if you have this type of revision you're recognizing that during the three year period after adjudication the decision can be questioned.

VAUGHT: In the Code, as it has been written, licenses that have been issued for a three-year period can't be questioned by an intervenor, but now (13)(i), as proposed, leaves it open so an intervenor can question them. We think we have the language in our recommendation that would close that door. Now, the second reason why we recommended the change. When we get down to the wording "except on the grounds of gross misrepresentation or fraud at the

time of adjudication." If we leave the bars open for misrepresentation, can any smart attorney go back and prove a misrespresentation at the time of the adjudication?

TUDOR: I'm afraid that's what any smart attorney would try to do, but whether he'll succeed or not is another thing.

VAUGHT: It does leave the thing open then for them to try to do what we don't want done. We think that the term gross "misrepresentation" should be stricken; otherwise we're leaving it open so some smart attorney can come back in and can prove enough to overthrow an adjudication.

LEE: I don't agree with you there. I never saw an attorney yet who didn't think he was smart. I don't go along with anything that is dishonest even in Nevada. If something is misrepresented it should be corrected.

VAUGHT: Let me go just a little bit further on it. I was thinking of a statute of limitation against the Bureau similar to what we have with the Internal Revenue people. After they have had your returns for a three-year period, they can't come back and question them unless they can prove fraud. But even on fraud there's a limitation of six years. Now we're throwing this thing open even after 25 or 30 years. We think there should be some limitation even in the case of fraud. The third reason why we recommend the change is to permit the fencing of allotments. At the present time we're in the process of adjudicating and setting up individual allotments. Permittees are ready to go out and spend their own money to fence these allotments. In order to have real management, a fenced individual allotment is exactly what we want. However, after a person gets an individual allotment he won't dare go out and build a fence for fear someone is going to come back and change that whole thing again. So with those things in mind we propose the following change: "Before final adjudication is completed, no readjudication will be made upon the claim of any intervenor with respect to the qualification of the base property, or as to the livestock numbers or seasons of use of the Federal range where such qualifications have been recognized and license or permit have been issued for a period of three consecutive years immediately preceding such claim." This provides that what we've done over the period of past years can't be questioned by an intervenor, but can be by the Bureau, until final adjudication is completed.

_____: The last part of our proposed change follows: "Upon completion of a final adjudication and acceptance of, or failure to protest within the time allotted by adjudication decision, by the applicant or intervenors involved, or its substantiation in a decision by an examiner, the Director, or the Secretary upon appeal, no readjudication of qualifications or Federal range allotment will be made unless mutually agreed upon by all parties involved." This would include the Government. When we get into final adjudication, and after the appeal period is over, these individual allotments are set up, and everybody has accepted them, the gate is locked and we're through, unless by mutual agreement of all parties concerned an adjustment is made. We should think this over well before we vote on it.

LEE: Do you propose to lock the gates now as to numbers as well as to areas?

VAUGHT: There is nothing in this recommendation that handstrings the Bureau in the management of the ranges. There are other provisions in the Code whereby they determine whether the range is overgrazed and make adjustments in numbers. If I'm set up with an individual allotment there will still be a guardian of that range, and if I'm overgrazing it they can at any time come out and so determine and require me to reduce my numbers. They can also require that I keep my base property maintained. There are other provisions in the Code covering this. The proposed change just locks the door so that after final adjudication, and Bureau personnel that we have at the present time are out of the picture, and we have new personnel coming in, somebody who wants to make a reputation for himself can't say: "They've made a big mistake here, I'm going back and undo this thing and do it over again." That's the thing we want to head off. We're trying to lock the door at the final adjudication so these permittees can go in and start rehabilitating their range, and be assured that their individual allotments are their's, so long as they graze it properly and maintain their base properties.

HUGHES: Let's get our minds on procedure. Before any changes, other than those set up previously, could be adopted they would have to be agreed to by the Department and would have to be sent back to the local boards for their review and comments. Am I correct on that?

TUDOR: No, they will not have to go back to local boards.

HAY: Let me make one more suggestion. It was brought up by Floyd, and the Director agrees. We are probably using the term "readjudication" wrongly. It should be replaced by the word "adjustment."

_____: I would assume that the words "on the claim of any applicant or intervenor" would mean that it applies to everybody -- the applicant, the intervenor, and the Bureau of Land Management.

_____: I don't think it refers to the Bureau.

_____: Well, if you eliminate those words the provision would then refer to everybody. Am I right on that, Joe?

TUDOR: Yes, after a final adjudication, it would refer to everyone.

HUGHES: The Bureau still has that prerogative of making adjustments in numbers and seeing that base property is being maintained; but new personnel coming out here ten years from now may go back over the old records and say they have too much area here, we didn't give enough here, we're going to readjudicate the thing. That's the thing that should be avoided.

VAUGHT: I think this is the most important thing we've got in our Code changes. I don't want the Council to take a vote on it without some thought. Could we lay it on the table and have copies of our recommendations made up and passed around so everyone can study them?

HUGHES: You can certainly so move. We will defer further consideration of the motion made by Mr. Hay and you see if you can get your recommendations reproduced so we can get them up tomorrow or Friday. Now we'll go to 161.6(f)(1)(ii) on the bottom of page 2. The change is adding the words "improperly issued or", to make it read "Regular licenses or permits to the extent, if any, to which they have been improperly issued or issued in excess of the base property qualifications." Is there a motion on that?

STRINGHAM: I move we adopt the amendment.

VAUGHT: I second the motion.

HUGHES: The motion is seconded to adopt that as amended. Any remarks. All in favor say aye. Then it will be adopted. The next change is in 6(f)(3). Any remarks or motion on that revision, including (a)(b) and (c)?

VAUGHT: Mr. Chairman, in Idaho we recommend that the word "substantially" be added in 6(f)(3) where it says, "provided all of the users agree to abide by the provisions of 6(f)(4) and 6(f)(5).

HUGHES: You mean "provided substantially all"?

VAUGHT: Yes. What it now does is to give one user legal power to hold up the whole procedure if he wants to.

HUGHES: You move the adoption with that amendment?

VAUGHT: Yes. I would move the adoption with that amendment.

HUGHES: You all understand the proposed new word. Is there a second to the motion?

HAY: I have a letter from the Chairman of the Tensleep Grazing District which I received this morning and with your permission, I'd like to read it. It says, "The Advisory Board of the Tensleep Grazing District feels that there is a definite need for a method of making graduated adjustments in Federal range use to be incorporated in the Federal Range Code. We urge that you work toward adoption of the following proposed change of Section 161.6(f)(3) of the Code. We would like to see it read along the following line: 'When the district manager, after referral to the advisory board, determines that the imposition of the full amount of the reduction in grazing privileges from current licensed use, necessary to reach the grazing capacity of any range area who impose a serious hardship on the range users, he may refrain from imposing the full amount of reduction forthwith and impose the same over a three-year period as demanded by the circumstances of the case.' We feel that this proposed change has merit and direct application to range administration and stabilization of the livestock industry in the Bighorn Basin. We will appreciate your efforts in working toward the adoption of this proposed change."

ETCHART: Mr. Chairman, our State Advisory Board (Montana) considered the

same change. What we came up with is similar to what Mr. Hay has read. I won't read it in its entirety, but the recommendation was that the district manager may schedule reductions of equal percentages annually over a three-year period.

HUGHES: I assume you will go along with Wyoming.

ETCHART: Yes, the same thing. I just wanted to point it out.

ARRIEN: The State board recommendation in Oregon was to make reductions not to exceed 10% annually. I ask you to consider this recommendation. To impose 25% of the total reduction the first year, 25% the second year, and the balance of 50% the third year. We made exception in the case of sheep. Where we recommend that the operator be given a choice of taking a reduction as outlined in (a), (b), and (c), or take a 50% reduction the second year and the remaining 50% the third year.

HUGHES: Don't you think it might be better if we left out those terms and leave it to local conditions?

SWALLOW: With respect to this section, Nevada made a recommendation which I'd like to read. The board recommended that in case of reduction in carrying capacity, it be spread over a four-year period with one year's notice without cuts followed by 10% the second year, one-half of the remainder in the third year and the balance of the reduction in the fourth year. It was recommended that section 161.6(f)(4) and (5) be stricken and section 161.6(f)(6) approved, except to omit reference to treatment under (3) and (4) which would not be applicable.

HUGHES: Let's ask Joe if he thinks the Department would go along with the suggestion.

TUDOR: That's a policy question and not a legal question. You are pointing out and recognizing the damage and then postponing the remedy over a period of years, which leads to further overgrazing.

KNIGHT: Utah agreed to go along with 1/3 of all reductions the first year, 1/3 the second year, and 1/3 the third year.

HUGHES: If there's no objection I'm going to ask that copies of proposed wording be prepared and pass this on for the present time. I think there's agreement among us that, if cuts have to be made, they have to be made. The question is whether we're going to put in our Code specific cuts for specific periods or whether we're going to leave it up to the local boards and let them work out a period of time. Could you get this ready for this afternoon or tomorrow?

VAUGHT: I think what has been recommended by Wyoming is all right. I will withdraw my motion and agree to this with the word "substantially" included.

HUGHES: Motion is withdrawn. We'll take the same action we did on the others. What about 6(f)(4)?

VAUGHT: In 6(f)(4) we added one more sentence: "The plan of action will be initiated after referral to the advisory board." We want to keep the advisory board in all the way through.

HUGHES: We have a motion to adopt 6(f)(4).

HAY: Our State board recommended that it not be adopted. If we adopt the proposed change in 161.6(f)(3), we could eliminate 161.6(f)(4), 161.6(f)(5), and 161.6(f)(6). So my recommendation is that 161.6(f)(4) not be adopted.

HUGHES: On that basis I would move that all 6(f) changes be deferred until we are prepared to consider them. We will go to 6(g).

HAY: Mr. Chairman, in this section we might have to consider all of the paragraphs together. Section 6(g)(2)(i) reads, "Increases in grazing capacity of an individual allotment resulting from proper grazing uses, seeding or other measures taken by the allottee will accrue to the allottee provided base property qualifications are maintained." In our meetings at the district and State level, we were totally in the dark to know what is meant by "provided base property qualifications are maintained." What is the thinking of the Department on that?

KERR: The base property qualifications of a permittee on the basis of which an allotment was granted to him, are to be maintained in good standing. He doesn't allow it to depreciate in value, and he doesn't dispose of the property. In other words, when an increase does materialize, he still has his original base in productivity as well as acreage to support an additional number of livestock. It isn't the idea of having them acquire additional base property.

HUGHES: If an increase is permitted his original base property must be sufficient to take care of the increased number.

TUDOR: We could rephrase it to provide that base property must be sufficient to support the additional livestock.

ETCHART: Joe, why don't you take the word "maintain" out and put in the word "adequate?"

HAY: My question is purely academic, just so we know what we're talking about.

HUGHES: If an increase comes about we still must have base qualifications for the excess number.

TUDOR: I think the question is this new capacity on Federal range arising from reseedings. Do you intend that it shall be supported by qualified base property, or merely by base properties?

KERR: To the extent that qualified base properties are available; and if these are not adequate, then additional property could be recognized.

Is Gene's statement adequate" Is that more acceptable?

LEE: I think that would be more acceptable in the water base States.

VAUGHT: Consider an individual allotment where an operator has a right for 500 head of cattle, his range is adequate to take care of them, and his base property is adequate for that number also. Through his own initiative, with no help from the Government, he goes out and develops water, does some reseeding, and does some cross fencing for better management, and so on. He builds the grazing capacity of the range up to 600 head and builds up his base property at the same time so he's able to take care of 600 head. Now that range is his. That's the way we interpret it and the thing we want. We don't then destroy any initiative to build up the ranges.

PIERSON: Mr. Chairman, we're trying to anticipate what is happening in quite a few areas. Somebody that is interested enough to put money in the range is also building base property. In some areas we're getting tremendous excess of commensurability, and also in some areas we're getting a lot of new grazing capacity on the Federal range.

GRIEVE: Are reductions made under 161.6(f) protected under the present range Code?

KERR: They are not covered in the present Range Code. They are covered in a policy statement issued by the Director. Some have felt that it would be very much in the interest of users of the range if the policy statement was inserted in the Code. That's the reason for doing it. Without changing our thinking on it a bit, we're trying to provide for the distribution of added grazing capacity first to the present users of the range. We may reach the point in some cases which presents the possibility that grazing capacity might be available for distribution to class 2 properties that have not been receiving grazing privileges up to that point.

GRIEVE: The State Board recommended that the National Council add a paragraph to protect the cuts made under 161.6(f).

HUGHES: I suggest that the language be changed to read "original base property or that acquired subsequent to the adjudication." I am of the opinion that if a man builds up his range, there's that possibility, with proper management and getting some water spread over the land, he may double the grazing capacity, or triple it. I'm talking now of small allotments where they can really spread the water out in the nature of irrigation. We ought to decide right now whether it's the thinking of the members, and whether the Department is in agreement, if this condition occurred and a man has adequately maintained his original base property qualifications, must he take advantage of that increase without buying more base property, or will he be allowed to buy more if he wants to?

ROMEO: I am probably the man responsible for bringing about this proposed change. It's up to me to clarify the purpose and intent of it. In Nevada, we've done considerable reseeding. We've used deferred grazing in a good many places, and we are in the process today of making individual or group

allotments. It has been our thinking from the Soil Conservation District standpoint that we should ask people to increase the grazing capacity of their own private lands and it has been done in many cases. In addition to that we also asked people to increase the grazing capacity of the Federal range. But there is no provision in the Code whereby a man who goes out and participates in the reseeding or fencing or protection of the Federal range is assured of any of the increase. We felt that this should be a part of the Code. We realized that it was a policy of the Bureau to grant increases to the individuals who were responsible for it. It was never made a part of the Code, so we formed a resolution in Nevada. It was taken to the National Association of Soil Conservation Districts and adopted, and we met with Director Woozley and Mr. Pierson in Washington last year and they assured us that they would make a provision in the Federal Range Code to take care of that very thing. Like you people who are not quite satisfied with the language in its entirety, I think there are probably changes to be made but the intent is there on the question of base property. I think the Code today says you must offer your base in order to qualify for range privileges. If you increase your grazing capacity on the Federal range then you must increase the base property qualifications. Another question comes on adjudication. For example, you were adjudicated a given number of AUMs and are taking a cut in a good many of the districts. Later increases built operations back up to full demand or full numbers. And then, there's class 2 available. If that class 2 is going to be distributed in accordance with the Code then we destroy individual allotments and create community allotments. We don't think that's right. A man may have 300 miles of fence, and we don't think he should have to cut up that fence because he went out and increased the grazing capacity of the allotment. We think if a man has class 2 base he should be given priority.

KERR: Your point is that the present allottee should be given preference in the recognition of class 2 properties.

ROMEO: Definitely, I think he should be given preference to the full extent of his adjudicated demand and any surplus base feed available should give him a preference on a class 2 basis where he can utilize this class 2 land.

KERR: If we set up individual allotments, just as you point out, the value and stability of operation that is implied in individual allotments should not be destroyed. When we have a group allotment it presents a different picture.

HAY: I think we should go ahead and discuss (iii) and (iv) and then make a recommendation. The Wyoming board was happy with the way it's stated in the present Code on page 8, paragraph (g). We spent all of our time adjudicating these properties based on priority and commensurability. And now in (ii) it provides that "Increases in the grazing capacity of a group allotment attributable to the efforts and practices of the users will be participated in by existing preference licensees or permittees to the extent of and in proportion to their respective contribution ..."

Well, almost everybody in the grazing States for the past 20 years has spent thousands of dollars improving their property, but I don't think we should now adjudicate the range on the basis of contributions. It should still be on priority and commensurability and I don't think that word should be used at all. I think it should be deleted.

LEE: It gives the advantage to the large operator over the small operator.

HAY: It's introducing an entirely new factor in this thing, and it's a miserable condition. We take strenuous exceptions to the word "contribution." We don't want that factor at all in adjudicating. In (iii) we think the last sentence; "...Any surplus forage remaining will be available for distribution to properties in class 2," should be deleted entirely. And then in (iv): "Increases attributable solely to Governmental expenditures shall be available for distribution by the Bureau to remedy grazing problems in the surrounding range area as well as within the allotment, to class 2 properties as well as to class 1 properties." We oppose this sentence. These are entirely new factors. Our conclusion was, after thoroughly studying page 4, that the entire proposal of section 161.6(g) should be eliminated and the present paragraph (g) on page 8 of the Code should stand.

HUGHES: All right, you have Mr. Hay's idea.

O'CONNELL: I think that everything we've been talking about here this morning is covered by paragraph (g) on page 8 of the Range Code. That distributes any increases fairly among all the users. The Code somewhere in its provisions will cover every case that comes up.

TUDOR: No, that is not true, because we do not know all that can be anticipated in a situation. The language of the Code as it now exists is not always adequate to meet a situation. Many things are being interpreted into the Code that are not specifically there. That was the reason for the major changes that resulted in the 1956 revisions. Range management operations grow with new developments, and as new situations arise. Some of the old practices are dropped and some are changed.

SWALLOW: I think these new provisions (6)(g)(1)(2) spell out specifically and give more protection to the permittee than is set forth on page 8 of the present Code. I think that was the reason for the new provisions being offered so that there will be no question when a permittee who has an individual allotment increases his grazing capacity. The idea back of this was that adjudication up to full qualifications had been made to the allottee or permittee during the adjudication period, but now the permittee increases the grazing capacity of his individual allotment and wants to be assured that any increase will come to him. I think we will feel a little more secure if it is spelled out specifically. Now in 6(g)(1) and (2) I think the wording that you suggested regarding base qualifications is something to this effect: "Original base property or that acquired subsequently." I think if we adopt that wording it will specifically give us a tenure in our individual allotments that we do not have under (g) on page 8 of the present Code. I think the purpose back of this is that we have more assurance of tenure and a basis to rely on being provided with any

individual allotment.

HAY: I'd like to move that paragraph 161.6(g) remain as it is in the Code and the proposed 161.6(g)(1) and (2) be rejected.

GRIEVE: I second the motion.

SWALLOW: I would like to make a request, if Mr. Hay will entertain it, that we do the same with 161.6(g)(1) and (2) that we did on previous proposals -- that we table them for the moment and take more time to consider and study them until possibly tomorrow.

HUGHES: Voting on the motion will be deferred. Let's go down to 161.8 on page 5.

HAY: Mr. Chairman, Wyoming considered 8(d) on the payment of fees, the assessment for delinquent payment, and so forth. We felt that the words "at least 30 days" should be deleted. The reason for this is that in the Southwest you could have a very dry situation or you could have rain 30 days prior to the turn-out date and a man's situation could change. You could have something similar in the Mountain States -- snowfall or rain, that could alter your position. I move the proposed change be adopted with the deletion of "30 days."

SWALLOW: I think we agree with Mr. Hay's suggestion on deletion of "30 days." However, in considering this 161.8(d) Nevada has a proposal which I would like to read. "Payment of fees; assessment for delinquent payment; reduction or increase in numbers. No license or permit shall be issued or renewed until payment of all fees and other amounts due the United States under the Federal Range Code for Grazing Districts has been made. Fees for licenses and permits are due the United States upon issuance of the fee notice pursuant to application and are payable quarterly at least 15 days in advance of the grazing period and for the full amount indicated on the fee notice; no license or permit shall be effective to authorize grazing use thereunder until such payment has been made. Any licensee or permittee who desires to make temporary use of the grazing privileges during any authorized grazing period or periods in a manner other than that authorized in his existing license or permit must obtain the permission of the district manager at least 30 days prior to the beginning of any such grazing period, in which case adjusted fee notices will be issued accordingly. Otherwise the full amount of the grazing fee is due and payable." However, we would be agreeable to the change on this "30 days." We feel this provision as suggested last year was rather rigid and in many cases would work a hardship on the permittee. It's difficult in most of the States to determine accurately, because of changes in many operations, the full numbers that are to be grazed. We felt that a plan that is used by many of the States in collecting taxes would be fair. That is to make out the license for the entire year but bill quarterly. This would be more reasonable and fair to the permittee.

LEE: I think you'll find that if you bill quarterly you'll get your cost up tremendously and the clerks will be overburdened.

HUGHES: I don't think you want to put this on the same basis as taxes because they don't give you any notice, at least they don't have to. A lot of permittees will never pay unless they are billed. They just don't think about it. Maybe you can change their thinking, but I'm afraid you're going to have to tell them to get their money out.

SWALLOW: If we pay these fees one year in advance, the Government is having use of our money interest free. I think that point alone is worth considering going on a quarterly billing. I think the personnel is sufficient, in most of these offices anyway, to issue these billings. It's just a matter of sending them out. I don't think that would run into any great problem, but I think the fact is we're letting the Government use a lot of our money interest free. I don't think that it's good business.

LEE: I feel that one of the big criticisms that we've gotten in resolutions is that we're not paying adequate fees for the use of the public range. I think you'd just better pay your fees and make a better feeling everywhere.

O'CONNELL: These grazing privileges are considered by all lending agencies as valuable leases. All lending agencies value these grazing leases highly. They do not hesitate to advance a man the money to pay his grazing fees. To make billings quarterly we would just be increasing the bookkeeping that the Department will have to do. I think we could very well leave it as it is.

VAUGHT: In following our procedure as we have in the past of considering all sections before we pass on anything, I would like to raise this question with John. What did you do with 8(e)?

HAY: We thought that was controversial. We recommended that it be stricken.

VAUGHT: In Idaho, we recommended that the whole thing be stricken. If we adopt the penalty procedure when a permittee doesn't pay within a thirty-day period, does it eliminate the present provision that he is in trespass? As I understand this as it is recommended by the Department we have the imposition of two penalties.

BROWNFIELD: Many years ago we were given the privilege of making recommendations on personnel control. Now if we recommend the quarterly payment proposition we will be changing the old policy by pushing the Bureau to put on more clerks which we'll have to pay. I think we're in a much better position if we pay annually and let it go at that.

HORN: This quarterly billing just doesn't fit Colorado very well. Many of our operations spend a month or two months on BLM lands, but I don't think a quarterly billing would fit Colorado at all.

HAY: I amend my motion to strike out paragraph 8(e) and then 161.8 will read as proposed with the deletion of the words "30 days."

LEE: I'll second that motion.

STRINGHAM: Just what is the motion?

HUGHES: The motion is to adopt the proposed changes deleting the words "at least 30 days", and eliminating 8(e).

STRINGHAM: You didn't give us time to talk about 8(e). In Utah, we're very sympathetic toward the Bureau. There are always those who will not pay their fees for a full year and there's nothing to force them. Why can't we go along with 5% as Utah recommends, that is 5% after the first thirty days and, if they're delinquent beyond that, another 5%. As Jerry told us before, they have a lot of delinquent payments. Utah is opposed to the motion. I make a substitute motion then that we do adopt 8(d) as recommended, except eliminate the 30 days.

HUGHES: Then I will call for a vote on the motion unless there's further discussion. It is now recommended to adopt 8(d) with elimination of the words "at least 30 days."

HUGHES: The ayes have it.

STRINGHAM: May I put Utah's motion in here on 8(e). What Utah proposes is that the 10% on second line be changed to 5%; the words "1 to 30 days" on the fourth line should be changed to "15 to 30 days"; the word "each" in the sixth line be changed to "an"; and 25% in the seventh line should be changed to 10%. That makes it 10% if we go over 45 days; 5% if we go 30 days.

FAULKNER: Jerry, the way it's set up, don't we have to pay our grazing fee before we can cut our stock down?

KERR: That's the regulation. All people don't do it. They are subject of trespass prosecution, after entering the range, but that's an expensive and time consuming thing. We thought the answer would be a delinquent assessment. That would make it a lot easier on the Bureau, with very little hardship on the users.

LEE: Can't you cancel or reduce a man's license if he doesn't pay?

KERR: That's right, we can.

LEE: We've got along very well the way it is now. You have a most severe penalty as it is. You can wipe a man out entirely. If a man fails to pay his fee, his license or permit may be cancelled. I can't see putting a little 5% or 10% fine on him. It wouldn't amount to anything.

SWALLOW: I agree with Mr. Lee's statement. I think we have adequate provision for penalty in that the Department can cancel or reduce a permit if the fees are not paid 15 days prior to the grazing period. That is enough penalty. There's no reason why we as permittees should compound our penalties and afflict something additional on ourselves. After all, if the fee is not paid 15 days prior to the grazing period we don't even have a license to go out there. The Department can take any measures

that are necessary which are more severe than the 10% or 25% penalty that is recommended in 8(e).

ETCHART: Wasn't this penalty supposed to relieve the provisions that would place a man in trespass. Now when he turns out and he hasn't paid, he's in trespass automatically. Wasn't this provision to relieve that and be less severe?

KERR: That was the intent.

ETCHART: Would this man be subject to trespass as well as this fine or would he be relieved of the trespass for say 30 days?

LEE: Our lawyers tell us that would not relieve the trespass, it would be in addition.

TUDOR: As the Code reads you would be in trespass if the fee wasn't paid on time. That does not mean that we could not change that provision.

LEE: But it's still there.

KERR: We've been confronted with a lack of proper control of trespass use of the Federal range. There are many essentially small operators, who are persistently late in paying their fees. We could proceed with trespass but then again it's one of those jobs that takes time and money.

LEE: If you trespassed one large operator because he didn't pay, that would just about eliminate delinquency, wouldn't it?

KERR: It would help. I know in Utah in the early days of the administration when Judge Johnson was Judge in the Federal Court, we had a number of trespass cases that were taken before him. The lecture he gave the trespasser hurt more than the fine he imposed; and it resulted in a considerable reduction in trespass. It resulted in a tendency on the part of licensees to pay attention to the regulations. We haven't had enough of those cases maybe to warn all the people. We feel the delinquent assessment would be very helpful. Whether Mr. Stringham's reduced fine would be enough to make it effective I'm a little inclined to question.

TUDOR: The Bureau and Department are not the sole administrators of the range. We have also the Comptroller General, who supervises the bookkeeping operation. It is quite possible that he would feel that we ought to collect our money due as promptly as possible. I don't know the reaction of the Comptroller General to this penalty. I do feel that sometimes we're tending to condone a late payment by too small a penalty. Whether the penalty provision will stand up in a court challenge, we'll see when we come to it. I think the reaction of the Solicitor's Office would probably be to pass this thing along. I do feel that 8(e) is still inadequate because we have to know where we're going to take the cancellation action. We've got to know whether this man is going to pay us. Somewhere along the line we've got to take action to collect, whether as a bad debt or as a trespass action.

LEE: When you're borrowing 8% money, a 5% fine isn't very much. You're still 4% ahead by not doing it.

TUDOR: It means that we're condoning nonpayment. The auditors are not going to like that situation.

LEE: We had a board member in New Mexico who miscounted his cattle and had 400 more than he thought, and didn't pay for them. The Bureau had him pay up and forgave him. I think a board member should be relieved of his duties on the board if he can't keep track of 400 head of his cattle. He should not be a member of the board, and I think that if the Bureau had stepped in and relieved him of his position, some of these trespass cases would have been eliminated.

ARRIEN: I'd like to ask Mr. Lee this question. Do you feel it's the prerogative of the board to find out the number of his stock and then register a complaint? Do you feel that is the business of a board member?

LEE: No, I think the business of the board is to let the people know what is going on in the districts. A board member should know the man, know his type of operation, and approximately the number of livestock he has. But this was a board member who had turned in his cattle 400 short. Now I don't think that sets a good example where you have boards that are supposed to be of help to the Government in taking care of the range. This board member was cheating the Government out of 400 head. Besides it doesn't give the distirct manager any idea what the actual use of the range is or whether the man is overgrazing.

ARRIEN: Mr. Lee, when these districts have as many as 10 to 12 people working within a given district, they have plane service at their disposal, they have no restrictions as to vehicles and equipment to maneuver about. You are trying to tell me that they don't know what's going on?

LEE: Of course, they know what's going on. But when a man admits that he has 400 more than he's paying for I think he should be cancelled as a member of the board, and I think that his permit should be reduced.

HUGHES: If the Department assesses a penalty, it has practically waived its right to go in and cancel a man's permit if he pays within that required period. That was at least the gist of our thinking last year. This was brought up by members here who wanted to get away if possible from the extreme penalty of cancelling a man's permit because he might have overlooked payment.

HAY: I move that section 8(e) be stricken from the proposed changes to the Range Code.

LEE: Second.

HUGHES: Ayes have it.

VAUGHT: I move the adoption of 161.9.

HUGHES: The motion is to adopt the 161.9 including all the matter contained on pages 7 and 8 to the top of 9.

HUGHES: All in favor of the motion, say Aye, all opposed No, the Ayes have it. Now we go to section 161.12 starting on page 9 in connection with trespass.

HAY: Wyoming approved 161.12(c)(2) with the following changes. It would read as follows: "Where the owner of the trespassing livestock, or his representative, is known, the district manager shall render a bill to the alleged violator for trespass fees determined as follows." Now in (i), instead of 10 we insert 2, then it reads "Two times the regular grazing fee in effect at the time of the violation." Change (ii) to read as follows: "For repeated trespass 10 times the regular grazing fee in effect at the time of the violation." I move the adoption of the proposed changes as corrected.

LEE: Second.

MCKNIGHT: What Utah would like to do is to have 50% of the trespass fee collection returned to the man who loses his feed. The amendment would read: "Where the owner of the trespassing livestock, or his representative, is known, the district manager shall make a determination of the damage to the Federal range and other property of the United States and shall render a bill to the alleged violator detailing the foregoing values including, in addition, a charge for trespass grazing fees determined as follows, 50% of which is to be returned to the operator in whose allotment the trespass was made."

LEE: What if it's my allotment and I trespass? Would I get 50% of my fine back?

MCKNIGHT: This is strictly for outside trespassing.

LEE: You don't say it that way.

TUDOR: The licensee has the responsibility of keeping people off his range. The United States is not going to act as a collection agency for the licensee who's losing his forage.

VAUGHT: We have considerable trespass in Idaho. Some of it we think is purely accidental. Some of it we know is wilful and repeated, and we think there is no need for having a trespass law if you don't have some teeth in it that does some good. Now in a good many instances there have been sheep outfits who go out and trespass and pay the fine that was imposed, and figure that it was the cheapest feed that they've ever bought. The imposition is not great enough to head off a man from trespassing. We've got to have it stiff enough so that a trespasser has to pay many more times in trespass fee than he would pay for the feed commercially. So we have suggested the following changes in (i). Change the $1 to .50 cents where it is not a wilful trespass. In (ii) where its repeated and wilful, we added "and/or wilful trespass" and left the rest the same as proposed. We think that's imposing a better fee, so a man will think twice before he goes back out again. We would be very much opposed to John's motion.

ARRIEN: Oregon has decided to go along on the 10 times and 20 times, respectively. They also added to (ii) the following words: "plus other damage to Federal land."

HAY: We struck the words "shall make a determination of the forage consumed." We felt that this is imposing a burden on the Federal Government which is practically impossible to perform. It should not have that responsibility. We also felt that we are basically concerned here with damage to forage. Where the Government's property has been damaged in other ways, they have other means for redress. In regard to cutting the "10 times" to "2 times" and the "20 times" to "10 times" and deleting the minimum charge of $1 per animal unit, our thinking in Wyoming was influenced by our not having a herd law. We felt that these penalties are clear out of line. One class of livestock will be in trespass which will be considered permissible, and the other class of livestock when in trespass will be penalized way beyond what is a reasonable charge. You are penalizing sheep very severely and waiving the penalty in the case of cattle.

KERR: The trespass procedures, so far as the Bureau is concerned, will require cattle as well as sheep, or any other type of livestock to use only permitted ranges.

TUDOR: John Hay's objection to the word "determination" I think is sound because the district manager cannot and should not have the authority to make such a determination of trespass because there he is not only acting as prosecutor but also as judge. I think all he can do is to set the amount of trespass and the amount of damage, put in a bill for it, try to make amicable adjustments, and proceed in one of two directions. If the trespasser is a licensee or permittee we bring him before the examiner, if he is not we can go through channels to the District Attorney. The next point I want to make is that it is very difficult to say what is wilful and what is not clearly wilful. That is not a judicial question, but it is a question of law, a question of intent; and it takes a tremendous amount of proof to show that there was such intent. Again, we can allege that it is clearly wilful or the district manager, on the basis of the evidence before him, can make such a recommendation or appraisal that it was or was not clearly wilful. Again if we don't penalize the trespass adequately we are encouraging trespass. Two times the grazing fee will be 44 cents, or whatever it is today, while the commercial rate is $3.50. So you are going to actually be encouraging trespass. And then a statement was made about (ii) on damages to the range. Of course, it is already in (2) that he should make assessment or evaluation of the amount of forage consumed and the damages to the Federal range; (i) and (ii) relate only to how the grazing fee trespass shall be charged and has nothing to do with other damages. They will be determined or estimated by the district manager.

LEE: What do you call a commercial rate?

TUDOR: A commercial rate is the value of similar forage per AUM in the Area in which the trespass occurred. Recent hearings before examiners

have involved witnesses who have leased their privately owned rangelands to stockmen at rates of $2 to $3.50 per AUM. Of course, all of this still does not preclude the Bureau from following through on the criminal side, bringing a man in under section 2 of the Act and prosecuting him criminally where the total penalty is limited to $500. Even where a State does not have herding laws, or even where State laws would not specify trespass, it could still be trespass under the Range Code where a license or permit to be on that range is not held.

KERR: Mr. Chairman, the State office in Wyoming suggested the addition of the words "negligent or wilful." That would help. Many of our cases are due to negligence; they aren't actually wilful. Yet as far as the use of the range is concerned it's harmful. It's as harmful to someone else whether it's wilful or only negligent. Under our licensing system when we issue a license for cattle within a certain area and they get off Federal range in a checkerboard area, then they're in trespass whether on Federal land or private land. They are outside the licensed area, and it is my contention that the operator can be prosecuted and it can be made to stick.

TUDOR: But can we prosecute when we find his livestock on a piece of private land?

KERR: I contend we can, in a situation of that kind.

TUDOR: The word "wilful" is a very slippery word and one that is very difficult to prove. Supreme Court decisions have indicated that we have to be very careful in the use of it. The word "repeated" means, let's say, two times. I just wonder when we use this word whether we're thinking of trespass twice in one year, trespass five years apart, trespass of a major character in one incident, or a minor character in another. The word "repeated" is also rather dangerous.

KERR: Mr. Chairman, I would like to tell you what a number of the district boards have pointed out in their consideration of 12(c)(2). We have a double assessment the way it stands now. There's a charge for the range at a commercial rate plus the trespass charge. One of the reasons for setting up the trespass charge is to eliminate the necessity of having to substantiate it before an examiner with credit able witnesses, the values of commercial range of similar character in the vicinity. It's been quite a problem. We've been able to do it in the past, but some of the stockmen who might be witnesses are a little reluctant to appear and testify at a hearing. So the purpose was to eliminate the determination of the value of the forage consumed. Then the damage to the Federal range would be added to the trespass charge, but the value of the forage consumed would not be included in the charge.

LEE: I was wondering if you couldn't get a better word than damage. Is damage just the grass consumed?

KERR: No, not necessarily. If seeded range is used too heavily, it shows up very plainly. There might also be damage to water facilities, etc.

HUGHES: The present motion before us is John Hay's in connection with paragraph 12(c)(2)(i) and (ii).

HAY: The motion is that 161.12(c)(2) will read "Where the owner of the trespassing livestock, or his representative, is known, the district manager will render a bill to the alleged violator for trespass fees determined as follows: (i) For trespass, 2 times the regular grazing fee in effect at the time of his violation; (ii) For repeated trespass, 10 times the regular grazing fee in effect at the time of the violation."

HUGHES: The most serious objection raised is that two times the grazing fee as a charge for trespass might be an invitation to trespass.

HAY: Floyd has suggested that we use 5 and 10. That's agreeable to me.

KERR: The 10 and 20 was based on our experience in those instances where we got out and determined what the local commercial forage rate was. It was anywhere from $2 to $3.50 an animal unit month. It varies in different locations, depending upon the availability of forage and the pressure for it. That's the reason we set it at 10 and 20. We wanted it to deter trespass, not invite it.

_____: May I amend the motion to change the numeral "2" back to "10" on the first line of (i), and on the first line of (ii), change the numeral "10" back to "20".

_____: Second the motion.

HUGHES: Any more discussion on the motion to amend? Those who want to go along with the figures 10 and 20, hold up your right hand.

HUGHES: Motion is carried.

ARRIEN: Mr. Chairman, since the amended resolution eliminated the words "damage to the Federal Range and other properties", I move that a section (iii) be added to take care of damages to Federal property.

HAY: Our resolution covers everything. We're not excluding anything.

TUDOR: I think Julian is on the right track. It originally included damages or injuries to Federal range or other properties. In John's motion, there is no provision for that type of injury or reimbursement for that injury. Some place here we've got to put in reimbursement for the value of any injury or damage to Federal range or property.

HUGHES: Let's read it as it is now passed. "Where the owner of trespassing livestock, or his representative, is known, the district manager will render a bill to the alleged violator for trespass fee determined as follows:" A paragraph (iii) should logically be added to it.

ARRIEN: Mr. Chairman, I restate my motion.

_____: I second it.

HUGHES: All those in favor that there be an additional paragraph added. Carried.

HUGHES: We will go to page 10.

VAUGHT: I move the adoption of all of 12 as suggested.

HUGHES: You heard the motion, now for discussion. All in favor of the motion say Aye - Carried. We will go to page 11.

VAUGHT: I move the adoption of 161.12(c) in its entirety.

HAY: We considered section 12(d) and after $2,000 we recommended that it read "All offers of settlement that exceed $2,000 damage to Federal range or other properties of the United States." We felt the Bureau might have to prove "the value of forage consumed in trespass" and that the words should be deleted. Is that all right with you, Mr. Vaught, to strike the words "value of forage consumed in trespass."

VAUGHT: It's really out of my hands now, John, because the motion was made, seconded, carried and passed.

HUGHES: We could rescind the motion, John.

VAUGHT: My former motion included 12(c) in its entirety.

HUGHES: If the motion was not understood we can now discuss it and see what we want to do, whether we want to delete any words in 12(d).

STRINGHAM: To clear the record, I move we rescind our motion in relation to 12(c).

VAUGHT: Second.

HUGHES: Purpose of the motion is to permit us to discuss these two revisions. Those in favor say Aye. O.K.

HAY: I move that in 12(c)(3), the sixth line from the bottom: "(i) the value of the forage consumed" be deleted. And then in the last paragraph 12(d), on the first line starting after the $2,000, the words "for the value of forage consumed in trespass" be delted. With those revisions, I move that 12(c)(3) and 12(d) be adopted as proposed.

WOOZLEY: We have felt for quite a while that what we need in regard to trespass is not the collection of money particularly, but to stop the trespassing. We have three things in mind. Of course, one will be a fine for trespassing, whether for one day or forty days. A lot of time you can't prove how long a person has been in trespass so there would be a fine which consists of 10 or 20 times the fee depending upon whether it's innocent or not. Another would be a payment for the loss of forage or damage to the

Federal range. We have felt all the time that there has to be two separate considerations. One is the damage for trespass and the forage consumed, and the other is a fine for trespassing.

TUDOR: Section 12(c)(3) is our impoundment procedure. Impoundment is the process where we remove the livestock from the Federal range, if necessary, when they are in trespass. We don't always do that. As a matter of fact, we have very rarely done it because it's very cumbersome and a very dangerous procedure. Nevertheless, we have to have it in here because sometimes it may be a necessary procedure. Now we have the livestock removed and under the supervision of the district manager and the owner comes in to redeem them, what are we going to charge him? These statements down here that John objected to tell the manager what elements go into the charge for the redemption of those removed livestock. The next provision 12(d), the amicable settlement provision, refers to all offers exceeding $2,000. There I would not object too strongly to the omission of these elements because they have already been used when you access the estimated damages and forage consumed. When you arrive at the figure in excess of $2,000 or below $2,000 you have already used the four elements.

HAY: Joe, do you recommend that 12(c)(3) remain as it is and 12(d) have "for value of forage consumed in trespass" deleted.

TUDOR: It doesn't do any harm, because it depends upon where that $2,000 is derived. The various elements went into the figure as we have it.

HAY: That's all right, I withdraw my motion then.

VAUGHT: I restate my motion that we adopt 12 in its entirety.

HUGHES: Motion now made to approve 12(c)(3) and 12(d) as written. Carried. Now we go to page 11, 161.17.

VAUGHT: I move we adopt 161.17 in its entirety.

HAY: I second it.

HUGHES: That would include (a) and (c). You heard the motion, which has been seconded, to approve 161.17 as written in its entirety. Any discussion? All in favor of the motion say Aye. Opposed. Motion carried. Now we come to 161.2.

VAUGHT: The only change we made in 161.2 was to make it "final adjudication" instead of just "adjudication."

KERR: I'm a little bit dubious about that "final." One of our field solicitors came up with a definition of adjudication the other day in which he stated the issuance of licenses constituted an adjudication of grazing privileges. He had to go to other laws; he couldn't find support for his contention in the regulation. There aren't any. Adjudication has not been defined in the past. We've been issuing licenses, starting in 1935, and we know how far we came from adjudication in issuance of those licenses.

In many districts, we continued the issuance of licenses in some instances with almost as flimsy a justification as we had in those first years of administration. The question of what adjudication consists of has come up time and again. The hearing examiners question our district managers as to what adjudication amounts to and what action it consists of, or what action is necessary to constitute an adjudication. That was the reason for the definition as we have it. Now when adjudication is final it's properly made. I don't believe that the addition of the word "final" as suggested by Milford is necessary. It might conceivably be an out for someone who didn't want to conform to these adjudications. When I use the terms "equitable distribution" or "share of the available grazing privileges", I'm thinking of the qualifications of a number of operators for range in a certain area. Where the range available is not adequate to supply all operators with all their class 1 qualifications, each one is still to get his share.

LEE: To go back to the beginning, you can recall, Jerry, that as soon as the law was passed we found ourselves in trouble on this. We gathered around in our respective districts and issued licenses to every man who had stock, because we wanted it within the law. When it came to adjudicating the land and water bases, we found we had licensed quite a number of people who had no rights whatsoever, because they had no base property. We volunteered to pay a fee, so we came a little closer to legalized use. Now I see a great difference in a licensed privilege and an adjudicated right. Without the advisory boards you wouldn't have been this far yet.

HUGHES: The real question, before us is whether this definition covers complete adjudication for all the districts with or without the word "final." It reads as though it is final, complete adjudication. Is that what is intended?

KERR: Yes. My objection was to the addition of the word "final." I didn't think it was necessary.

TUDOR: Theoretically we have what amounts to final adjudication on Federal issue of permits. Until we have actually issued a permit we have not yet passed an adjudication. When we issue a license, theoretically we're still in the process of adjudication. We have not yet reached the final adjudication.

KERR: Because of the indefiniteness of control of base property due to short leases, or property in the course of changing hands, it's inappropriate to issue a permit because it is such a temporary things. Although the adjudication has been completed and the extent of the qualifications of the property concerned has been determined, we still continue in this one instance to issue a license. And we go on until that insecurity of status has terminated, although all of the neighboring stockmen might have their term permits. We issued a number of term permits back in 1942 and 1943. Many of them were improperly issued, because we didn't have all the necessary data. When we issue term permits, it should be on a sound basis. We want to be sure we have the soundest adjudication we can possibly get. Those areas that have already been adjudicated in the water States are all set. The adoption

of this definition of adjudication will have no bearing whatever on them. In the land base States where all operators have long-term permits, this definition has no bearing. After the number of years they've been in operation, we should be able to assume that they're sound.

VAUGHT: I'd like to say one thing on the word "final." We would want to clarify it, because I'd certainly hate to have one word in there that would infer that some of the adjudications now are not final. True enough we may have to adjust some allotment down in grazing capacity, but that doesn't mean we change the figures and make allotments after adjudication is done.

HUGHES: Is there any motion on this revision one way or another?

STRINGHAM: I move we adopt 161.2 as written.

LEE: Seconded.

HUGHES: It is moved and seconded that it be adopted as written. Any further discussion? Call for motion. Motion carried. Idaho has something written up on 161.6(e).

VAUGHT: I don't know whether everyone has had an opportunity to look over the suggested changes that we recommended or not, or whether they'd like to defer it until tomorrow morning before they give consideration to it. Personally, I think it's one of the most important things that we have in the Code. There were three reasons why we offered these changes. The first reason was because as recommended by the Bureau where they tie (13(i) and (ii) together it opens the bars for an intervenor to question the qualifications of a permittee. We've had 13(i) which provided that after the qualifications of the base property and livestock numbers and so on had been determined and licenses or permits issued for a period of 3 years an intervenor or permittee could not question those rights. As we see the one the Bureau has offered, it would let the bars down for a three-year period starting all over again where those could be questioned. I don't think any of us want to do that. The second reason is that after final adjudication is complete, the determination has been made of a man's qualifications, and all the users in the area sit down and divide up the allotment, we want a statute of limitation against the Government whereby some of the personnel of the Bureau can't in the future come back and say that was issued wrong and we're going to change it. We're not worried about the personnel we're working with at the present time, we're thinking of the future when maybe our sons are operating the places and new personnel have come in. Maybe some fellow wants to make a reputation for himself by going back to the records and making a determination. So we want a statute of limitation against the Government so they can't come back and change it in the future. The third reason we proposed the changes is so that, after the final adjudication has been made and it has been accepted and the appeal period is over, the door is locked. In regard to the provision on misrepresentation or fraud, almost anyone could go back and prove misrepresentation. We're throwing that thing wide open if we leave that word in there. If we leave in a waiting period for fraud, there should be a limitation on it. Even with the Internal Revenue people there is a statute of limitation where, even though they could prove fraud,

after a six-year period they can't come back and open a case. We want this thing final.

STRINGHAM: Milford, when this comes up in the morning, what's the motion?

VAUGHT: That we adopt this in place 13(ii) as it's written in the present Code which provides for adjustments on the part of the Bureau at any time. We don't think that that is necessary. Any adjustments that are necessary can be made under other provisions in the Code. The adoption of this will not hamstring the Department in any way in the complete administration of the range. So we think that as far as the word "adjustment" is concerned, it's not necessary at all.

ARRIEN: I'd like to ask Mr. Vaught, if the game commission came in and asked for 15 per cent more of the available range for game, would that last sentence there where it says "mutual agreements of all parties involved before any change is made" hold up in a case like that?

VAUGHT: I don't know, Julian, whether I can answer that or not. I think that in considering the carrying capacity of the range there is going to be provision for a reasonable amount of wildlife.

ARRIEN: But there's nothing final about setting up the percentage the game commission asks. That's still open as I understand it. So wherever that limit is it certainly isn't set here, or can it be set?

VAUGHT: I don't know whether it can be set. Is there any provision in the Code where we can set it? As I understand the Code, it is one of the responsibilities of grazing boards to recommend the amount of range in various areas to be set aside for wildlife.

KERR: A provision in an earlier part of the Code provides for a reasonable number of wildlife, and what we hope for is that the State game people will come into the units where we're making our adjudication, and agree on the game population to be provided for in each unit and whether that is a reasonable number for the future. If we can agree to that, then we have a set figure and make provision for that number of big game. Some State game boards are reluctant to give us information on the present deer population, or to commit themselves on the number they want to continue there. We have too many of these boards that are reluctant to give us the information, and we can't manage the range unless we know how many deer and elk, or whatever the species may be, as well as livestock, we're going to have to provide for. I don't think we're unreasonable when we ask the State game people for that information.

SCHARFF: In Districts 1 and 2 in Oregon, in trying to get ready for final adjudication, we did present a detailed map to the game commission asking for the use in all of these areas. It was quite a time before we could get the information. Finally they did tell us their present use and also that they were going to try to maintain their big game herds at that level. But they did not give us any assurance that that would be the future policy of the game commission.

KERR: We adjust the number of livestock on the basis of available grazing capacity, and in some cases a reduction is necessary because of an increase in deer population. In other words, when the big game demand increases, and you cannot get that demand reduced by hunting, you are going to have to adjust the livestock use.

ARRIEN: I don't think you can throw away the key, because somebody still has it and can open the door.

HUGHES: We recognize that the ranges must be maintained in condition to take care of not only livestock permitted but game animals also. If the range starts down, permittees are going to have to recognize it and adjust domestic livestock to bring it back. We are going to have so many deer or elk on the range. When we take an allotment, it is up to us to maintain it in good condition considering the use we get of it and the fact that there are going to be big game animals on it. Our only remedy for excessive herds as far as I know is to appeal to State fish and game commissions to let the hunters take two deer on one license or to provide a late hunting season. I still contend that when we say we're going to allow 15% of the forage for big game or we're going to permit 1,000 head of deer on this area, we are just using a lot of words. We recognize the right of game to be there. They are going to be there whether we recognize them or not. But fundamentally, we recognize that we've got to use the range so it will be in good condition considering all kinds of use. I think if game animals get on your range, you have trouble. You have to convince the State fish and game people that a reduction is needed or you have to adjust your operation so that range doesn't deteriorate.

VAUGHT: Whether we adopt this Code change or not, it makes no difference as far as game is concerned. After a three-year period if the door is locked and we have an increase in game, adjustments still have to be made. We can also be faced with many other things such as irrigation development that will require adjustments. It doesn't make any difference under which provision the final adjudication is made, we will still have adjustments to make.

HAY: The proposal made by Wyoming District No. 1 was to adopt a version of 161.6(f)(3) eliminating the annual schedule and deleting (f)(4)(5) and (6). It would give the district manager and the district advisory board authority to eliminate the excess use 100% in one season if they wanted to, or they could mutually agree that the excess be eliminated over a three-year period. These things have to be worked out through mutual agreement and cooperation. I would say that these provisions should be broad and sufficient to see that everyone's rights are protected. I move that the proposed changes in 161.6(f)(3) and 161.6(f)(4)(5) and (6) on page 3 be rejected, and in lieu thereof the following rule be adopted: "When the district manager, after referral to the advisory board, determines that the imposition of the full amount of the reduction in grazing privileges from current licensed use necessary to reach the grazing capacity of any range area will impose a serious hardship on the range users, he may refrain from imposing the full amount of the reduction at once and impose the same over a three-year period as demanded by the circumstances of the case."

ETCHART: Second.

HORN: I would like to ask John if the wording "refrain from imposing the full amount" means that if the district manager felt he should impose the full amount he could make a full cut in one year.

HAY: It wouldn't be mandatory.

HORN: It wouldn't be mandatory, but he could make this as steep a cut as he wanted to?

HAY: If it was agreeable he could make it 100%. It would have to be agreeable with the board.

HORN: If the board didn't go along with it, he couldn't?

HAY: The district manager will usually agree on it though.

STRINGHAM: I think this is very vague. As Mr. Horn says, we can slice the whole thing off at one time if we want to. Why don't you take 1/3 each year instead of turning it loose and cut the whole thing off and putting the man out of business.

VAUGHT: I think we have all been hopeful that some day within the framework of the Code we would be able to adjust these cuts downward over a period of years.

_____: Does what John recommended give you the provisions so you can carry out these reductions over a period of years?

KERR: I believe it does. It leaves it up to the district manager and the advisory board to make the adjustment that is necessary to fit a particular situation. You aren't confronted with the specific provisions of the present proposal. It does provide flexibility. We've got to have confidence in the wisdom of the district manager and the advisory board.

GRIEVE: I am in favor of this motion. I think it does something to leave the matter to the discretion of the district manager and the advisory board. It gives an operator a chance to acquire additional feed and not only benefit himself but the economy of the country in keeping his livestock out on the range.

SWALLOW: I would also like to favor Mr. Hay's motion. I feel the advisory boards in the districts are acquainted with local conditions and are qualified along with the district managers to make the proper decision, and I think a better decision will be made by the advisory board and the district manager than can otherwise be made. I want to go on record as favoring this motion.

VAUGHT: I'm in favor of the motion if it includes what we want.

TUDOR: 161.6(e)(3) of our Code now says "No license or permit will confer grazing privileges in excess of the grazing capacity of the Federal range

to be used." Therefore, it would have to be modified if the change in 6(f) is adopted. There have been some complaints from the Bureau of the Budget auditors that we were not cutting off all excess privilege beyond capacity Leaving adjustments to the discretion of the men in the field is a policy question that I can't answer. It's not a legal question, but I think in many respects we have been trying to lay out the yardstick by which the district manager will be guided in these operations. Leaving it flexible can lead to abuse. You may have two people in the same district, both of whom are grazing 50% in excess of the capacity, and in one case the manager will apply a full 50% cut the first year and in the other case take the 50% at the end of the third year, of course, adding to the overgrazing in the ensuing years. There is also another type of situation. Suppose your grazing is only 10% or 25% in excess of capacity; do you really want to permit the district manager and advisory board to carry that over to the third year, or would it not be better to make that cut now and give your range two years more in which to come back and produce? Those are policy questions.

BROWNFIELD: Joe, are you going to attempt to say what's needed for the range, or are you going to let the district manager and board decide? Don't you think it's good range practice to let them decide what is right? Don't you think you can give them the authority? I don't think anyone who sits on the board will let one person have an advantage over another.

KERR: In answer to the question Joe raised, the criticism that has been made by the auditors of the General Accounting Office, I believe, is based on the fact that we have the provision in 161.6(e)(3) which states that no license or permit will be issued in excess of grazing capacity of the range. In some units the grazing capacity has been determined and then, instead of making the full reduction, the district board decided to apply a smaller cut that needed and deferred the balance until a later time. As the auditors pointed out, we were going directly contrary to the regulations.

TUDOR: You are limited by 6(e)(3) and by the ruling of the Department. When you are aware of overgrazing, you have to reduce to the capacity. When the manager is aware of overgrazing, he has to make the full cut now. That's what the Department has ruled and that's what the Bureau of the Budget complained about when we sidestepped.

ARRIEN: I think you're hedging quite a bit when you assume that, just because the matter will be referred to the advisory board, the final action is going to be the action of the board. I think it's far better if we put some kind of a limitation on the cut that can be made in any given year. Making these reductions over a three-year period will allow an operator to dispose of his livestock in a more profitable manner. He is given some guarantee that there will be three years in which to do it.

HUGHES: All those in favor of the Hay motion say Aye. Motion carried.

(The following, which is a continuation of the discussion on "Proposed Federal Range Code Revisions," took place on Thursday, February 25.)

BROWNFIELD: We have a little unfinished business on the amendments to Code provision 161.6(e)(13)(i) on page 2.

VAUGHT: If we adopt the recommendation that was made by Idaho, is it something that is workable in the Code as far as the Department is concerned?

KERR: There's a question in my mind whether the Department will be willing to close the gate on its authority to make adjustments. The way it is now, the Department has this authority.

VAUGHT: Do you feel that you should have the authority to go back and make another determination on fenced allotments and adjust the line and put someone to the expense of rebuilding the fences?

KERR: There is a question of whether the Secretary, who is responsible for the administration of the Taylor Grazing Act and has delegated that authority to the Director and from the Director on down to the districts, might not be loathe to lose his discretionary authority.

VAUGHT: The door is still left open for you to make adjustments which in effect is readjudicating. It may be only between two individuals, but it's not putting the stability there that we would like to see.

TUDOR: The Secretary would be rather reluctant to forego any of his authority. We don't know what situations may arise which would require him to exercise that authority. Last year it was decided that generally the Bureau will not reopen these cases as a matter of policy. The Bureau is fully aware of the position that you're taking, that there is a need to foreclose some of these things. What you're talking about is not adjustment of the basic qualifications, but handling range abuses. We have had many cases that have been challenged through one means or another, and we've got to look into them. So the Department would be reluctant to completely forego its authority, although it is not going to go promiscuously looking for trouble.

VAUGHT: I move the adoption of 161.6(e)(13)(i) as suggested by the Idaho State delegation with the understanding that the retentipn of (13)(ii) as now written remain in the Code.

HAY: Milford, I made a motion that (13)(i) be approved as proposed on page 2 and that number (13)(ii) be retained in the Code as published in November 1958. And then you asked if your amendment couldn't be considered. I think we will save a lot of time if we go ahead and adopt what has been proposed. I don't want to do anything that would interfere with land management in your State, but I think that with this and other Code provisions you will be able to take care of everything. I move, Mr. Chairman, that my motion be adopted.

VAUGHT: I withdraw my motion because Mr. Hay's motion was laid on the table for consideration later.

KERR: The present regulation is not too different from the one that is being proposed. It has the three-year closing date. That same three-year period will stand here. It doesn't open the door for another three years during which permits and licenses may be set or adjudicated. That three-year closing period is past.

VAUGHT: The proposal is that (13)(i) and (13)(ii) be thrown together in the wording on page 2. Doesn't that open the door for a three-year period for the intervenors to question our qualifications? That's the fear we have in Idaho, and I think it's in there as plain as it can be, because you're opening it for anyone for a three-year period.

HAY: This (13)(i) and (13)(ii) provides that there can be an adjustment without readjudication. I think it takes care of any situation that will develop.

TUDOR: You still have the right of appeal, right to the Secretary. You're fully protected. I don't share the apprehension that you apparently have on its application.

VAUGHT: That was one of the things we were worried about, because, as we read this, it's open for a three-year period for anyone to question your qualifications.

KERR: What it actually does is to include the Bureau as well as the intervenor or anyone else. The three-year period is the same three years which has been long past.

VAUGHT: If we leave that term "misrepresentation" in there, and I understand that John's motion retains it, doesn't that leave the door open so some shrewd lawyer can take a case and prove that there has been misrepresentation? We're throwing the thing open so there is no limitation if someone comes in and attempts to prove misrepresentation.

TUDOR: We are using the words "gross misrepresentation." The word "gross" should be a key to you. Anyone who tries to prove this is going to have a real rough time. The lawyer who attempts this has a heavy burden of proof on his shoulders of not merely misrepresentation, but gross misrepresentation amounting to fraud.

VAUGHT: When we wrote it up last year, we figured we had the protection that we needed; but in talking to our attorney in Boise, he says you could open up any case, because you can prove misrepresentation in any of them.

TUDOR: The wording "gross misrepresentation" is carefully chosen. Only a judge can decide whether there is gross misrepresentation. It is certainly a lot more than merely misrepresentation or error.

HUGHES: This would not set a three-year period starting now, it would be retroactive. I don't know whether we would want to take out the words "gross misrepresentation and fraud." They are needed.

STRINGHAM: The Utah State Advisory Board wants this added after the word

"adjudication", the last word in the paragraph, "or except there may be changes in commensurability upon which the license or permit was granted." I so move that amendment.

HAY: I don't believe that changes anything in there. It's all right with me to accept the amendment. What you're asking for is already in the Code under other provisions concerning administrative problems.

STRINGHAM: The motion is withdrawn.

BROWNFIELD: Do you understand the motion? All those in favor say Aye. Motion carried. Next is 161.6(g)(2) on page 4.

VAUGHT: I want to read into the record some of the suggested changes we offered. Some of it pertains to wildlife. 6(g)(2)(i) we adopted as it is suggested, but in (2)(ii) we added after the words "grazing conditions" the words "of their proportionate share." In (2)(iii) we changed the wording in the next to last line from "will" to "may." In (2)(iv), we inserted in the first sentence, following the word "available", the words "at the discretion of the district manager after recommendations of the advisory board", and added at the end of the last sentence "such increases may also be available for a reasonable amount of wildlife use." We added another section which would be (2)(v). This proposed subsection would read: "At the discretion of the district manager, after reference to the advisory board, cooperative agreements may be entered into with wildlife interests. Increases in range carrying capacity resulting from such cooperative efforts shall be available for a reasonable amount of wildlife use."

BROWNFIELD: Is that cooperation between the ranchers and wildlife or between wildlife and the Government?

VAUGHT: Wildlife and the Government. Would you concur in that?

BROWNFIELD: I think it is in section 9 of the Taylor Act. Did you make that a formal motion?

VAUGHT: No, I just asked to read it into the record. I would move the adoption of 161.6(g)(2)(i) as it is.

ETCHART: I second the motion.

VAUGHT: The suggestion was made the other day that we change the last word from "maintained" to "adequate." I move it be adopted with that change.

SWALLOW: I move we keep 161.6(g) as on page 8 of the Code and also adopt 161.6(g)(2)(i) with the word "adequate" substituted for "maintained" and 161.6(g)(2)(ii) as proposed.

VAUGHT: Before I'd go along, I'd like to ask what the thinking is in the addition of provisions under 6(g).

KERR: I think the wording of 161.6(g) as in the Code now is perfectly all right as far as providing for and establishing individual allotments, and in

a general way we take care of the distribution of additional grazing capacity. It isn't spelled out though, and the additions are to make the regulation more definite. Maybe we've gone farther than is necessary. What we're trying to do is set out the regulations so there will be no question about how additional grazing capacity would be distributed.

VAUGHT: I can see nothing wrong with the recommended changes in (g)(1); however, I consent to withdraw my motion and yield to Mr. Swallow.

SWALLOW: I'll move the adoption of 161.6(g)(2)(i) and (ii) with the understanding that 6(g) as written in the Code is retained. Also, the word "adequate" will be substituted for the word "maintained" in 2(i).

VAUGHT: Some of our friends who were invited to visit with us this morning are coming in, so I move you, Mr. Chairman, that we table these for consideration at some other time.

BROWNFIELD: Motion has been seconded. All in favor. Passed.

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BROWNFIELD: I think these people would enjoy seeing how we function as an Advisory Council. We are working just now on procedures in the Range Code. Just before we recessed, we were discussing 161.6(g).

SWALLOW: I make a motion to change 6(g)(2)(ii) to read the same as 6(g)(2)(i) with the exception that "individual" be changed to "group."

ETCHART: Second.

BROWNFIELD: You also have the suggested word change of "maintained" to "adequate" do you not?

SWALLOW: That's right.

BROWNFIELD: Do you all understand the motion?

STRINGHAM: There are so many things contained in one motion; can we split it up so we'll know where we are going?

SWALLOW: I think it would be necessary to have all this in one motion in order to include what we consider necessary. We're adopting 6(g) the same as on page 8 of the Code and then we're adopting 6(g)(2)(i) and 6(g)(2)(ii) as previously worded. We want the same wording in (2)(ii) for group allotments as we have in 2(i) for individual allotments. The only change we made in 2(i) is to substitute the word "adequate" for "maintained."

WOOZLEY: I think after discussing this problem with some of the fellows it may be helpful to give you briefly our reasons for the changes. I understand in some of your States that class 1 and class 2 privileges have been handled exactly the same. Both of them have been using the range. In many States, only class 1 has been able to use the range. We have a lot of new

reclamation projects that came in about the time the base was set up. These people had base properties, but may not have had livestock at that time. Now we're building some of our ranges so there may be more livestock on the range than there was originally licensed. I happen to feel that an individual allotment, a person who has built that range should never be required to move his fence back or take a neighbors livestock inside. He's responsible for it. In group allotments we have a lot of people who have contributed when they have been able. They've had to keep their extra livestock off until their class 1 was fully satisfied. If we get above the class 1 allowance, some determination ought to be made to let class 2 permittees come in. That's why we have differentiated between individual allotments and group allotments. In Idaho the valleys are practically all agriculture and the hills are all grazing. Many stockmen do not use the national forests. We can't have individual allotments because of the access to water. We're going to have to have group allotments. We feel that the class 2 permittees should have an opportunity to come in when these ranges are built up above the normal class 1 requirement. That's what we're trying to get at but the way it's worded here may be confusing. I know I talked to one of your members yesterday and he said that isn't what it says, but that's what we're trying to get in here. I understand that there is some confusion as to what we were trying to get at.

VAUGHT: The motion that Mr. Swallow has made is that we won't make the change in the wording as suggested by the Bureau in (g)(1). The wording was changed to facilitate the application of (2)(i) and (2)(ii) and on down the line. His proposal is that we adopt these with the suggested changes, but we maintain the wording that is in the Code at the present time. Certainly there is a reason for changing the wording as in (g)(1).

TUDOR: I want to make some technical observations. If you leave 6(g) on page 8 of the Code as it is, then you don't need the remainder of your (g)(2)(i), (ii), (iii), and (iv). If you're going to use any part of these on page 4 of your revisions, then it is necessary to eliminate the last sentence of (g)(1) which is on page 4, because the intent is carried out in the following provisions. These show how increases in capacity will be distributed. I'd like to point out also that in (g)(2)(ii) the intent is to indicate how the new capacity will be distributed among the allottees. If you word (i) and (ii) to read identical, then you have not pointed out to the board and the district manager how this increased capacity shall be distributed in a group allotment.

LEE: We oppose using contributions as the basis for distributing increased capacity, because we have many small individuals in these community allotments and we have some large wealthy ones. It's unfair to cut out the man who has his qualifications through his commensurate rights but cannot contribute to improvements. We feel that the word contribution should be deleted.

BROWNFIELD: Can the small operator make contributions of labor?

LEE: Yes. He can cut posts or may do work to build a fence or make ditches. But this says "in proportion" and that proportion may be very small compared to someone who contributes large amounts of money.

VAUGHT: I think this is controversial enough that we should take it a step at a time, instead of trying to group it all in one motion. I'm going to move a substitute motion to accept (g)(1) with the language as shown at the top of page 4.

STRINGHAM: I second the motion.

BROWNFIELD: Motion has been made and seconded. Any discussion?

GRIEVE: I would be opposed to accepting it as it is on page 4 without knowing that the part taken out will be included in some other place.

TUDOR: We can solve this very easily by saying that subject to the approval of (g)(2), (g)(1) as it is presented by the Bureau is approved by the Council. Your approval of (g)(1) with its elimination is subject to the addition of the intent of that elimination in (g)(2).

VAUGHT: I would change my motion to include the wording Joe has suggested.

HAY: We're voting that 6(g) on page 8 of the Code stands as it is with the addition of 6(g)(2)(i).

BROWNFIELD: All those in favor of Mr. Vaught's motion raise your right hand. Eight votes for and ten against. All right, Mr. Swallow, we are ready for your motion. Do you all understand his motion?

SWALLOW: I'll restate my motion that we retain 161.6(g) as written on page 8 of the Code and 6(g)(2)(i) except that the word "adequate" be substituted for "maintained" and that 6(g)(2)(ii) be worded the same as 6(g)(2)(i) with the word "group" substituted for "individual", and "allottee" changed to "allottees."

STRINGHAM: I would like to amend the motion to this effect: In place of 6(g) as in the Code on page 8, we replace that with 6(g)(1) on page 4 of the recommendations. That was a substitute motion we just voted down, and this is an amendment and is different. We still have the entire motion.

HEATON: A man is set up on an allotment, and through reseeding and better range practices he increases the carrying capacity of that allotment over and above his original base qualifications, does he have any assurance that what he built up over and above his base qualification is his? That's exactly what we intend to do in 6(g)(2)(i), subject to his providing adequate water.

HEATON: That was worrying us. Now in this allotment, the operator built second class waters. If this (g)(2)(i) doesn't take care of it, we feel that (g)(2)(iii) should be included.

TUDOR: (g)(2)(i) refers to the allottee who has built this himself and (g)(2)(iii) refers to cooperative effort between Government and allottee. There the Government wants to have a word in indicating how it will be distributed.

HEATON: In Arizona, there have been a lot of increases above the carrying capacity originally set. We feel that second class waters should be entitled to that before someone else is allowed to come in. We would like to be protected there.

KERR: The water situation described is not a problem because the allottee has been given the allotment on the basis of control of necessary water that services the area. It's very possible that he wants additional water, or that part of the allotment isn't as well serviced as it might be. Class 2 waters have been recognized in an individual set up in that allotment, and they are part of his base. Once they are recognized they are just as good as any class 1 water. This applies similarly to class 2 land. Your class 1 properties have been recognized and you still have range available to give to other properties, then your class 2 properties come in and are recognized. When these are recognized they become as sound as class 1 property. I don't think the people in Arizona have anything to worry about as far as distribution in individual allotments is concerned. We do not propose to break those down and bring in other users even though the grazing capacity may be increased above the former demand. Of course, the permittee must have adequate water for the stock this grazing capacity will provide for. If it's necessary for him to improve his water supply or have additional water, then that is his job.

ESPLIN: What we are concerned about in our individual allotments is that we will not get the benefits from our cooperative improvement projects. If somebody else is going to get those benefits I don't want to be a cooperator in that development. Even though the Government comes in and we do it under a cooperative agreement, we want to be sure that we're going to benefit by this individual allotment improvement. We're reluctant to have this go into effect, because there's a danger that our cooperation with the Department is going to produce an additional amount of feed that we've got to share with somebody else within individual allotments.

STRINGHAM: We should be talking about my motion. The motion was seconded and I had the right to make that motion. It wasn't the same motion as the substitute motion. The substitute motion cancelled the original motion. I'm going along with the rest of Mr. Swallow's motion except for this amendment. It's been seconded and I'd like to have you rule on it.

HAY: We voted down Mr. Swallow's motion that 6(g)(1) would take the place of 6(g) on page 8 of the Code.

STRINGHAM: We passed a substitute motion which cancelled all past motions. I'm merely amending Mr. Swallow's motion; replace 6(g) in the Code with 6(g)(1) as written by the Bureau.

FAULKNER: I'll second it.

BROWNFIELD: Ayes have it. Now we go to (g)(2)(iii) and (iv).

VAUGHT: The recommendation from Idaho is that in (g)(2)(iii) we change the word "will" to "may." I would move its adoption with that amendment.

BROWNFIELD: Any discussion on that? The motion is to accept (g)(2)(iii) changing "will" to "may." Made and seconded. It's carried.

HUGHES: When the Government comes in and puts up half the money for improvements and the permittee puts up half and agrees to maintain, then the permittee is entitled, if he has base qualifications, to his half of the additional carrying capacity. The Government is entitled to one-half. But it may give it a class 2 applicant who wasn't previously in the allotment. Now if that's what we want, the majority rules. But let's face that as it reads now, I would assume it would apply to any allotment.

KERR: That may be a weakness that (g)(2)(i) applies to individual allotments and the other provisions apply to group allotments.

VAUGHT: In Idaho, when we suggested the change in (g)(2)(iii), we certainly were figuring that it was applicable only to group allotments. We could add the words licenses or permittees in group allotments, if that would make it more acceptable.

HAY: That's just part of our objection. It says "increased forage to the extent of and in proportion to their respective contributions." We don't want it based on that, we want it strictly on their qualifications, priority and commensurability.

VAUGHT: Contribution is the controlling factor.

HUGHES: We talked about making a special rule. I seriously question whether you can make any special rule which would override the Code as adopted.

TUDOR: We can't make a special rule contrary to the law. But we have special rules which are deviations from the provisions of the Code.

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HAY: Wyoming wants paragraph 6(g) on page 8 of the Code retained. We'd like the whole thing opened up.

ESPLIN: I'd like to make a motion to reconsider 161.6(g).

HAY: Second the motion.

BROWNFIELD: The motion is made and seconded to reconsider the action taken this morning when we approved (g)(1) and (g)(2)(i),(ii) and (iii). Any discussion? We'd better have a showing of hands. 13 in favor. Motion carried.

ESPLIN: I make a motion that we retain (g) in the Code on page 8 just as it is written.

HAY: Second.

BROWNFIELD: The motion is made and seconded that we retain (g) on page 8

of the Federal Range Code. Ayes have it.

ESPLIN: Now I'd like to make a motion we accept 6(g)(2)(i) on page 4 with the words "provided base property" changed to "provided class 1 and class 2 base property within the allotment."

BROWNFIELD: Joe, I'd like you to give us your reaction to that proposal.

TUDOR: I don't think it's necessary for the reason that you're speaking here of an individual allotment. Now that individual allotment is either class 1 or class 2 or part class 1 and part class 2. If the allottee has unsatisfied class 1 demand which can be met with new capacity that will be met. If there is still forage available, then it will become class 2. All we're speaking of here is excess capacity going to the allottee. I'm not quite sure what you're concerned about. Are you concerned about being required to present new base property?

ESPLIN: No. In my allotment the Government develops class 2 waters. Then they might allot somebody else on that class 3 water.

TUDOR: Your problem isn't in the scope of (2)(i). That provision covers the problem of an increase resulting from the action taken by the allottee, not by the Government. Your problem refers to Government action which is covered by (2)(iii)and (2)(iv).

KERR: I can't see what Lee is concerned about. His allotment is already set. He has his base property which has been recognized and there is nothing in the regulation here or proposed that would have any adverse effect on his allotment whatsoever.

ESPLIN: Suppose that there had been a tremendous amount of increase in grazing capacity and some neighbor wasn't fully satisfied, just over the fence. Might he ask that it go to him.

SWALLOW: I would like to ask Mr. Esplin if he would withdraw his present motion, and, if he will, I would like to move the adoption as we had them this morning. I think that accomplishes what Mr. Esplin wants and his problem probably lies with (iii) which we'll take up later. Would you withdraw your motion and let us proceed with (i) and (ii)?

ESPLIN: Yes.

SWALLOW: In that case, I move the adoption of (i) and (ii) as we had them this morning.

VAUGHT: Some folks are worried, and maybe justifiably so. Let's talk about the case where the increased carrying capacity is on a reseeding in which the Government participates. Where does that increased carrying capacity go on an individual allotment? I'd like to know the answer to that question myself. The motion passed this morning still doesn't correct that situation. You've still got an individual allotment where the carrying capacity increase wasn't solely due to the allottee. Does all of the increase still go to the individual allottee, even though the Government does contribute some to it?

WOOZLEY: That's right. No matter who contributes on an individual allotment, we feel that he should get all the benefits.

VAUGHT: It really doesn't say that, although I was sure that that was your intention.

WOOZLEY: Definitely. We would like to see it worded that way.

TUDOR: To meet our particular problem, there are two suggestions that I have that I think will do it. Make (2)(i) read "reseeding or other measures taken in whole or in part by the allottee." That would include some Government contribution. And then in (2)(iii), the policy is to limit the benefits of the excess capacity to these group allottees. Make it read: "When increases result from the cooperative effort of the Government and licensee or permittee in a group allotment, the latter shall have a preference for the increased forage within the group allotment, to the extent of and in proportion to their base qualifications. Any surplus forage remaining will be available for distribution to properties in class 2 of the allottees in the allotment."

SWALLOW: I will be glad to accept in my motion, the language as proposed by Mr. Tudor.

VAUGHT: Second the motion.

BROWNFIELD: Any more discussion?

VAUGHT: I move the adoption of (2)(i), (ii) and (iii) with the language as proposed by Mr. Tydor.

BROWNFIELD: We'll have a vote. Motion made and carried. I want to call your attention to 161.7(b)(3) on page 10 of the Code. We've had, since the beginning, a number of operators who leased from another party. Such an operator had his own stock and qualified the leased water. He has had the lease all these years and the owner never did have any stock. The owner sold out and deeded his property, and the man to whom he sold has been keeping this property maintained and leased. Sometime back the operator took a section 4 permit and drilled a well with plenty of water, and now wants to transfer the rights from the base well over onto his section 4 permit well. We turned him down time and again because the Code didn't so provide. We feel that the man should be allowed to transfer. In order to permit him to do so, I move that the words "or assignee" be added after the word "lessee" in the fourth line up from the bottom of page 10. The assignee wants to transfer any rights that were placed on this well by the original permittee to his section 4 permit. We don't think there is any conflict with any other section of the Code.

BROWNFIELD: Is there a second to that motion.

HORN: I'll second it.

BROWNFIELD: The motion is made and carried. Ayes have it.

ACTIVITIES OF THE COLORADO DEMONSTRATION ALLOTMENT COMMITTEE (LEONARD HORN)

Quite a number of livestock people in Colorado have felt that we should try to do everything on the range that we possibly can to make better conditions for our livestock. We feel there are ranges where we don't have proper distribution. This goes for BLM ranges as well as Forest Service. Our thinking in the Colorado Cattle Association is to try to make any allotment carry all the livestock possible through proper distribution, spraying of weed areas, and reseeding. Water distribution is our biggest problem in livestock distribution. A committee was set up and the Medicine Bow area was first selected. In this area there are two separate demonstration allotments, each fenced into four separate pastures. Three pastures are grazing in rotation each year, and the fourth one idle. Each pasture is idle every fourth year. The area is relatively level with small mountain meadows and small streams of water. Away from these mountain meadows was an entirely different kind of grass. Cattle wouldn't leave these meadows, and the carrying capacity was based on them. By rotating the pastures cattle were forced out on the ridges. This pasture rotation was carried on for four years in this allotment. At the end of four years they felt they might double the amount of cattle. The second allotment has the same terrain and the small mountain meadows are overgrazed. The permittee on that range said he'd be glad to go along with them on an experiment of this kind. The Forest Service built fences which were quite expensive. This second allotment is 73% overgrazed. All four pastures are utilized in rotation each year. The full 173% stocking is being used for the four years to see if rotation grazing will increase the capacity that much.

In Colorado we set up five such allotments. The Forest Service has been anxious to try rotation grazing, and four of these five have been set up on a rotational plan. The program is just now beginning. The fences are in, and they are starting operations. We've got the Forest Service to go in with us so it wouldn't cost the operator too much. This coming season they've promised us that two more allotments will be fenced. They're doing quite a lot of spraying in high ranges to kill weeds, and give the grass a better chance. About 8,000 acres have been sprayed on the Grand Mesa. So if we can go into the program without a lot of fencing cost, we want to see what a little cowpunching will do along with a lot of water development. It's quite a refreshing idea after the Forest Service has been making cuts right along. We're happy to have them talk about doing something so we can put more stock on the Forests. The Bureau in Colorado is very interested in it. I might mention this while I'm thinking about it. Game will undoubtedly benefit along with all classes of livestock. So we talked to the game people and they are enthusiastic about it also. Going back to the Bureau of Land Management, they were very anxious to have me bring it up here. Maybe we can instill some enthusiasm here at a national level to either try it in Colorado where we've got the start and go several allotments on the Forest or in other States. I believe that in these demonstration allotments we can sell new cooperators on what might be done if more people would be interested in it. I feel that if we could finish up two or three allotments, possibly in a State, and a field day could be conducted, we could sell it to a lot more people. Our soil conservation districts have been interested in

what we're doing also.

VAUGHT: Where you divided these pastures did I understand you to say the fencing and so on has all been financed by the cooperators?

HORN: By the Forest Service, but only on these original allotments are they paying the full cost.

ADVISORY BOARD ORGANIZATION, REPRESENTATION, AND FUNCTION
(L. R. NADEAU)

At the time we were preparing our suggestions for topics to be included in the agenda for this meeting, the subject of advisory board organization, representation and functions appeared timely. In one of our districts, because of controversy over range adjudications, the advisory board assembled without being called by the district manager. If you will refer to the Code, advisory boards assemble only when called by the district manager. Although the members did not draw per diem, statements were issued to the press in the name of the advisory board as though the meeting had been officially called. It created somewhat of a disturbance in that particular area. At a Farm Bureau Federation meeting attended by several hundred people, according to a newspaper, a resolution was adopted which would, and I quote, "give the district advisory board back the power it originally had." Inferences pertinent to such resolutions could be misleading to many people. We were advised by the office of the regional solicitor about that same time that there was proposed legislation before Congress which would materially affect the organization and functions of the advisory boards.

One of the districts raised a question about election procedures for district advisory board members at large. There are two or three such members in one of our States, but we couldn't advise them on procedures because there were none. We found out from the Director that that is permissable provided the whole district is considered as one precinct. Where members are elected by precinct apparently it is not permissible. So there is a question as to the propriety of having advisory board members at large. They have already moved in one district to eliminate the advisory board member at large when his term expires. My remarks were to be limited to those which might prompt some discussion, so I suggest you consider a review of the regulations authorizing advisory boards and describing their duties and responsibilities, information releases intended to place the advisory boards in proper perspective with the public, and how advisory boards can best serve the industry and the Bureau at the same time. I think sometimes we put the boards in almost impossible situations. I'm sure I'd feel that way if I were a board member in connection with things we ask them to do.

DISCUSSION

LEE: About the advisory boards meeting without being called by the district manager, the only thing is, they won't get paid for it. During the time when we were short of money in the Department, we had to provide the money to pay the district manager. We called a meeting and settled our problems, but the actions of course, were just the Boards's. What they agreed on wasn't official, but there was nothing to stop them from calling a meeting.

NADEAU: The point I made was that there was some concern by both the district and State office that the board assembled and took action which was released affecting the Bureau's program. The circumstances you speak of, Mr. Lee, were different. The Code provides for executive sessions upon approval of the district manager. He can authorize the board to go ahead in these sessions. This was not provided in the Code where they gave releases to the press indicating it was an official meeting. We had trouble

trying to explain it. We might be able to better inform the boards of the provisions in the Code and how they are authorized to proceed.

LEE: Apparently some of the board members don't know that the board can make its own rules or define certain matters in their districts that will regulate certain actions. It saves a whole lot of trouble, if the local board will set up rules which are valid if approved by the district manager and by the State Supervisor. I think that's one thing the board has a right to do and they should know it. Running sheep in New Mexico is certainly a lot different than running them in Montana. We should cover those things under local board rules.

NADEAU: I'm sure some of our boards out in the Northwest have done the same thing, Mr. Lee, but the things that they put into the local rules are provided for in the Code in the sense that the Code says the board will make recommendations on various matters. The board puts these rules in writing so that anyone coming on the board and our personnel coming into the district will know them.

LEE: Here it is in 161.16 of the Code. It says, "Whenever it appears to a State Supervisor after considering the recommendation of the district advisory board that local conditions in any district make necessary the adoption of a special rule on any of the matters in the Federal Range Code for Grazing Districts in order better to achieve an administration consistent with the purposes of the act, he may, with the concurrence of the Area Administrator, recommend such a rule, supported by a factual showing of its necessity, for the approval of the Director. Such rule, if approved, shall be published in the Federal Register." That's what we have done. It makes it much simpler to solve particular problems.

HUGHES: How far can we go on these rules?

NADEAU: Once a rule has been adopted and approved by the Area Administrator and the Director, it's just as solid as any other part of the Code.

TUDOR: The Code does not provide for the operation of the board itself. It's up to its own internal management how it runs, how it's set up. The board, therefore, may adopt what you might call by-laws for its own operations and those will be recognized as long as they are not inconsistent with anything else in the Code. Those rules are different from what we refer to as special rules under Section 16 of the Code. Those special rules were made by range management. Those, of course, have to be approved by the Department or the Director.

LEE: In our area, we believe in good fences. We made a special rule requiring every individual with an allotment to fence it. If a permittee doesn't fence or contribute to building a fence, we can reject his grazing permit. It's kept a lot of people from dragging their feet, and not getting the ranges down to carrying capacity and stopping trespass. In that way we have handled trespass. We haven't imposed hardship on anybody. A person who can't do much financially is required to cut the posts and build the fence under that special rule, and we haven't had any appeals. I think it can solve a lot of problems with a special rule and everybody

knows they are all under that same yardstick.

HUGHES: Well, Joe, that goes a little farther than what you said. Do you think it's valid?

TUDOR: I assume that that has been approved by the Bureau.

LEE: Yes.

TUDOR: What you're saying, Floyd, is that we should use a special rule as a tool of management to meet special problems that arise from time to time in certain places. We should, perhaps, be thinking more of the use of special rules to meet particular problems rather than put them into the Code for general application when actually these problems affect a certain area rather than the district generally.

LEE: That's what I'm trying to say. Some of these matters can be handled on a local basis rather than trying to change the Code.

BROWNFIELD: In the years gone by we have had a number of stockmen go broke. All they had left was their base property with a mortgage on it which prevented them from getting more money with which to buy livestock. We permitted them to hire livestock so as to make enough money to live on and pay their taxes. We got consent from the Director 20 odd years ago to prepare a special rule on this, but it has never been written.

KERR: The proposed legislation that Mr. Brownfield refers to was sponsored by the Department of Justice and is aimed at advisory boards and committees in general.

HUGHES: It broadens the base of the advisory board, doesn't it?

KERR: Yes. We don't like it. We get along very well the way our boards are operating. We'd like to see them continue. Another thing is the agenda for the meetings. These are supposed to be set up by the Federal official. That's fine and generally true, but that doesn't close the door to other subjects being brought up for discussion and consideration by the board. It's one of those bills that is aimed at one particular problem, I suppose, and what we're hoping is that we can get things shaped up so it isn't going to have any adverse effect on our operations. There's another possible bill similar to the Metcalf bill, introduced a couple of years ago, which would provide a multiple-use advisory board instead of our stockmen advisory board as we have now. That hasn't been adopted as yet.

PIERSON: We've been trying to get them to tone it down a little. It would amend the Taylor Act to abolish the present advisory board system and set up a multiple-use advisory board with one stockmen, one water user, one recreationist, and one wildlife member, etc. It would also amend various sections of the Taylor Act including section 3 which would remove the whole basis for adjudicating privileges on both water and land, and remove the McCarran amendment and other parts of the Act.

KERR: If and when this bill is introduced, you will be advised.

PIERSON: We were ready three years ago to testify on that bill and then five or six days before the hearing they suddenly called it off. For several years, we have been required to report on the nature and responsibilities of our advisory boards, and defend their present makeup.

KERR: We're required now to report to the Department the changes in membership of the district advisory boards.

HUGHES: Now we will hear from Mr. Arrien on the subject of advisory board meetings.

SCHEDULING AND CONDUCTING ADVISORY BOARD MEETINGS AND PUBLICIZING RESULTS; RULES, POLICIES, AND PROCEDURES
(JULIAN ARRIEN)

Press releases on advisory board actions should have advisory board approval. This problem came about as a local issue where information disseminated did not quite agree with what actually transpired. In some instances there has been a lack of understanding of the functions of advisory boards that we are nothing more than a rubber stamp. Some press releases have failed to convey the true meaning of the advisory board findings. The advisory board, beyond doubt, has a most significant role in formulating data for constructive advice and assistance on the many problems confronted by the livestock operators on grazing matters. This information assembled by a group of men and women is presented to the district manager, in most instances without prejudices or bias. Problems are considered faithfully and with good intent. It's very disheartening to have the press take the issues and publicize them with inadequate knowledge as to what the basic intents of the findings may be. I sincerely believe that some policy statement could very well originate from this Council relative to this matter. For instance, time could be provided prior to adjournment of the meeting to have a short talk between the advisory board and BLM personnel for formulating a joint press release. After the information has been clearly understood by both parties it can be said it has been cleared for release. Both parties concerned have an equal responsibility to see that fair and just treatment is given to the issues at hand.

DISCUSSION

BROWNFIELD: You mean to publicize the actions of the board? I'd oppose it because advisory board recommendations are public records. To stir things up through the newspapers is wrong. I think you're just getting into deep water with newspapers trying to run your business. Anyone who's properly and directly concerned can review the records.

ARRIEN: After an advisory board meeting we don't formulate any information for the press, but a reporter may ask a board member how the meeting turned out. This reporter naturally jots down a few notes, and then writes up the story. We've heard of the concern over southeast Oregon three or four times at this meeting. The people on the street and the townfolks are all interested. That's why a little thing becomes blown up overnight. It isn't that we're adverse to giving out information; we'd be very glad to, but what we give, I think, needs more accuracy than in the past.

BROWNFIELD: The only way you can stop them from writing what they want to write is to give them the right information.

HUGHES: I think reporting on the advisory board proceedings is somewhat similar to reporting legal proceedings. After they get it into the papers, it looks a lot worse. What we ought to do is just let them read the record; it's their business.

ARRIEN: I do feel that on an important matter that a joint release with BLM

would certainly receive favorable comments. We never have taken time in our local boards to insist on a joint press release.

KNAGGE: I don't believe that we have any control over newspaper reporters. I've had a little experience with trying to get them to print what I wanted, and they say what they want. I'm sure, if we could get the proper publicity, it would be very favorable to the Board; but it seems like an almost insurmountable task to get those gentlemen to write what you'd like to have them write.

HUGHES: We feel that the local BLM officials and the board should make a joint statement and give a copy of it to all papers in the districts. There would be several papers you'd have to get it to.

ARRIEN: I think the Bureau has a good background in press releases because they certainly get the information out. There isn't a newspaper locally that doesn't carry the proceedings as far as I know.

HUGHES: Mr. Carroll will now speak on the subject of new Civil Service classification series for BLM.

EFFECT ON NEW CIVIL SERVICE CLASSIFICATION SERIES ON BLM ORGANIZATION
(EDGAR B. CARROLL)

Federal positions have two types of classification, one which covers pay and one which covers a man's eligibility to do a particular job. This is for the purpose of insuring uniformity amongst the various agencies so that one doesn't pay more than the other for equivalent work, and also to assure that incumbents of the position meet at least a minimum standard to do a job.

The Bureau has about 70 different series or types of skills amongst the 2500 persons we employ. We're concerned today with only two, the Range Conservationist or Range Manager standards on one hand, a professional group; and the Range Aid or a nonprofessional group on the other. The range conservationist-range manager standards, and the range aid are participated in by four different agencies in Government besides BLM -- the Forest Service, Bureau of Indian Affairs and Soil Conservation Service. For the past year and a half the Civil Service Commission has been working on new range conservationist-range manager standards. The existing standards have been in effect since 1946 and naturally are out of date. They do not represent actually what our men are doing. So we are quite happy that the Commission has undertaken the job of bringing up-to-date the descriptions of duties which are applicable to our agency as well as the other agencies who use them. It's been awkward for us to operate with standards as old as they were. They were established for the Grazing Service operation where we didn't have multiple-management to the extent we do now and range managers did not have the degree of authority which they do at the present time. We employ about 295 range conservationists and range managers, not all on range work; some are actually lands examiners. But for the most part, they are range workers. We have about 40 range aids. These two series are important to us because 295 represents a substantial part of our total staffing. Our range management activities are important to our whole Bureau. The Commission in developing these new standards worked very closely with the agencies. They designated Mr. Knott of the Commission Staff at Salt Lake to work with us, to actually go out and see on the ground what our range managers do and to compare what they do with what Forest Service men do, and the Bureau of Indian Affairs and SCS. The Government must have a common standard which can be used by all the agencies, and not work around single individuals.

I know all of this is very technical, but it's important to us since we want to make sure we're not paying more or less than other agencies. We have been pleased to cooperate as closely as they have permitted us to, and we're still working with Mr. Knott. In January they sent us a set of new standards for range conservationists and range managers. They have gone out to our area people for comment which is due in from them sometime next month. We must get the report in to the Commission by March 23. We're going to have to live with these standards for a while, and we want to make sure they will facilitate management to the ultimate. The forestry group took the lead a year and a half ago and the range group followed. The range people are anxious to become permanently established as professionals which is only justifiable in view of the college courses which are now available, and we're going to make certain that our range people are paid on an equal basis with our foresters. These classification standards have various factors in them which will help a classification analyst to determine just exactly how much salary such employees should receive. The amount of

supervision he receives, the scope and effect of his work, how many stockmen he must deal with, how many permittees, how many head of livestock, the acreage he has control over, the land pattern are all taken into consideration. All of these things have a bearing on the degree of difficulty of a man's job.

Within each of these five factors are what we call elements or degrees of difficulty. With respect to each element in the standard, we apply a certain number of points for each given job and by tallying up all the points, we establish a grade. It's a modern type of standard, a bit experimental, but it's been used long enough to indicate it's a better approach than that used heretofore. Naturally, until the standards are finally approved we must respect the opinions of the other three agencies who use them. We can't make any definite commitment. It does appear to us, though, on the basis of making experimental application of these standards to our jobs, that there will be some up-grading of our range managers in charge. At the present time approximately 15 to 20 of our district rangers are in grade 11. These standards, because they are recognizing to a greater extent than heretofore the professional characteristics and degree of difficulty of their jobs, will tend to raise each of our range manager jobs to at least a grade 12 level. The standards when finally approved may tend to make some of our most difficult districts grade 13, how many we don't know. At the State and Area level, there may be some grade changes indicated. We're a little more uncertain as to how they will be affected, than we are on the district level, because principally these standards affect range managers at the district level and their particular staffs. In these days in competing for the best skills, you've got to be in a favorable position to attract and hold the very best talent you can get. We haven't had excessive turnover amongst our range people. I think one of the reasons for that is because they're so loyal. We hope that with the approval of these standards they will receive the pay to which they are entitled and that management will insure that they are performing the duties they are supposed to under the new standards. We expect the standards will be in effect probably by July 1. The Commission has embarked on a program of bringing new standards into all jobs throughout the Federal service and they are driving hard on it. We're glad that they are, because this has dragged out for a year and a half now and our managers know about it and they are interested in it because of their income, and we want to finish it as soon as we can.

Now, on the qualifications side, we have new standards with some major differences. Heretofore we have been plagued by a standard requirement that applicants for positions must have certain specific courses in college. This new standard is not going to be nearly so limited. We think that's a good thing. However, it will still require that applicants for the opening grade, GS 5, must have graduated from college and must have had semester hours in a range of given courses. The standards have been furnished to the colleges by the Civil Service Commission, and they in turn will comment. Some of them already have. They are complaining about one provision which would permit a man who has not graduated from college, but who has had some college and some livestock experience, to come in. It would also permit persons who didn't graduate from Range

Management but who did graduate in related sciences, for instance, agronomy, wildlife, etc. to come in if they had specific range courses somewhere along the line; or if they had a combination of college and outside experience. Some of the professors feel, they are pretty much banded together on this, that to permit other than pure range conservationists or range management graduates to come into Federal range management positions, is to say that it is not a profession. They don't like that. They claim that now they are equipped to turn out enough graduates to supply the needs of various Federal agencies as well as private outfits. They admit that at one time the supply was not sufficient, therefore, we had license to lower our standards. The Bureau in working with our technical people and people at field levels, is going to make sure that whatever finally results is going to be to our liking as far as we have authority to do it. Another interesting item about these standards which never appeared before, and which we are glad to see, is that for a job which requires that the person must have had acceptable experience in public relations, such as dealing with stockmen, we want a person who has proven himself as being capable of doing that and we would have certified to use from the Civil Service register only those persons who have had such experience. It's a new sort of a thing, I'm quite surprised that the Commission seems willing to buy it, but up to now they seem to want to go along with it.

For range aids, we have a new set of standards. It is a simple type of standard. It's based on the number of seasons a man has worked on a ranch. Grades vary from grade 2 to grade 9. This will permit a person to come in who has had no college but who has had actual livestock ranch experience. A high school boy, for instance, would be hired as a grade 2, even though he had never worked on a ranch. He can go up to a grade 9. For grade 9 we have a provision in the range conservation-range manager standards for a cross-over of range aids, but they must have by that time proven that they have acquired enough knowledge to have the equivalent of a college education in range management. This, we think ought to solve some of the Bureau's problems which we have had through the years. Not all of our range aids have the potential to become range managers, we know that. But we also know that some of them do. And we want to leave the door open as far as we can. We may have a difficult time keeping this provision in the standard because most of the other agricultural scientists have positive education requirements at 5, 7, 9 through 15. They do not have a cross-over provision. But we are going to try to make this stick. We think there is a real advantage to the Government in doing so.

DISCUSSION

LEE: Mr. Carroll, in the meeting at Wichita of the American National Cattlemen's Association, two criticisms of the Government were made. One of them was that your man gets a project started somewhere on the range and then is transferred somewhere else without finishing it. That type of thing is what they wanted stopped. You've lost all the work that's gone ahead when you transfer him around just because he can get a higher grade or higher pay. The other criticism in their resolutions was that they want a man with livestock background, not just one that has been successful in dealing with livestock people. They believe that a man going onto the range should

have a livestock background. He should have been raised on a ranch or farm. Several States passed the same resolution so it must be hitting several areas.

CARROLL: That has been a problem to the Bureau. The Director has stated that the Bureau does not have a mandatory rotation policy, it does not move people around merely for the sake of moving them, but we do have a promotion plan which is required by the Civil Service Commission. When a man's name comes up as being the choice for a better job elsewhere it's very difficult for us to penalize him by requiring him to forego that promotion in order to complete the project.

LEE: Their idea is to let him have his promotion, but it should be subject to his finishing the particular work he was doing, and then transfer him as soon as it is completed. They didn't want to stop him from being promoted. We have a copy of the resolution which reads: "Whereas cooperative range improvement programs and demonstrations have been developed between BLM and Forest Service employees and permittees, in many instances the employees who have assisted in developing these cooperative programs have been transferred prior to the completion of these programs, and,

"Whereas the personnel of our land use agencies, in order financially to better themselves, must transfer to districts or to units that have a higher rating standard as to salary and grade, a situation that requires the grading of the respective district or unit jobs rather than placing emphasis on employees' capabilities and,

"Whereas this situation causes numerous annual transfers within such agencies, thus seriously disrupting many range improvement programs which are so essential in protecting the natural resources;

"Therefore, be it resolved that we urge the administrators of our public lands and Civil Service to give careful consideration to grading the man instead of the job using the same rating for personnel in either large or small districts or units, thus eliminating much of the incentive for shifting from district to district to secure a higher position which would land itself greatly to better management and,

"Be it further resolved that a copy of this resolution be transmitted to the Secretaries of Agriculture and Interior."

I think it was constructive criticism, not destructive.

CARROLL: I think the new standards will tend to cut down some of that but not all of it.

KERR: The new standards will help; they may not cure the problem entirely. It's something we'll have to pay more attention to.

Often times we don't pay much attention to the work the individual has under way. We are very reluctant in Range to recommend moving a district manager who is right in the middle of adjudications, for example. In some areas, it may not be a matter of promotion, but some other reason

may be involved.

LEE: I've been Chairman of the American National Livestock Committee for quite a few years, but I've noticed each year they are more concerned.

HORN: In Colorado we thought by holding all the districts to the same level, a man wouldn't be likely to transfer out of one to go some place else. If they are all at the same grade, we felt there would be a possibility they wouldn't be shifted as often.

CARROLL: The standards under the caption "ability to cooperate with other people" read as follows: "Many of these positions, particularly those involved in field programs, require public contact work and involve a considerable amount of work with other agencies, organizations and individuals, and require the incumbent to maintain and establish sound public relations especially with the general public. For any of these positions, applicants must show they have had certain training or experience in working with others and establishing and maintaining sound, effective public relations, to be able to perform successfully the duties of the position for which they are being considered."

HORN: We asked specifically in a resolution that was passed two years ago, that the livestock associations be contacted regarding new Civil Service regulations. You didn't mention them.

CARROLL: I'm not sure, Leonard, I know that the American Society of Range Management was furnished with a copy. I see no reason why we shouldn't request the Commission to send copies to any association that wants one.

HORN: I think it should be done.

HUGHES: The next speaker, Mr. Hochmuth, is not available right now, so we'll hear about allotments from Dee.

BILLING TEN-YEAR PERMITS ON BASIS OF CARRYING CAPACITY
(A. D. BROWNFIELD)

I'd like to recall to your minds that we have two districts in New Mexico, district 4 and 5 that are 100% under ten-year permits. District 2 has a little more than 90%. We come to the point where our local board and district managers don't have very much to do except to watch trespass and to see that the range is not abused in any way. We feel that what we need to do is receive a billing every year and then have the Bureau come around once or twice for a check up to see if the range is being abused. The proposal reads like this:

> "Bill everyone who is under ten-year permit for the animal unit months, or the carrying capacity that the permit calls for at a specified time each year. No cattle or sheep or goat numbers would be shown unless we find some reason for it. The full Federal range animal unit months would be paid for each year unless a general epidemic caused removal of stock and the advisory board and district manager recommended a credit which would then be sent through channels required by the present regulations. No community allotments would come under this rule or those on licenses. Those in these categories would continue to apply each year until such a time as permits are issued or community allotments are broken up into individual allotments or operated under a joint permit. Allotments, in this event, would be placed back on annual license when it was determined the range was being abused by overstocking or base waters were not being maintained."

The advantages in this system would be: First, clerical and other time would be saved by not having to process some 400 or 500 applications each year, along with the time spent in calculating percentages when numbers are fewer or more than permits. Uniform time of issuance of billings and licenses would save time and would be less costly. Supplemental billings would be eliminated. Second, field men, would be more concerned with range conditions and related management problems. More time could be spent in working with ranches and on management of forage resources. Trespass would be narrowed to allotments under license, allotments returned from permits, and community allotments. This could be handled, we think, under the Code provision 161.16. We see no need for change in the Code.

MINIMUM GRAZING FEES AND FEES FOR LIVESTOCK UNDER SIX MONTHS OF AGE (A. D. BROWNFIELD)

You wanted me to say something about fees for livestock under six months old. We've given that a lot of study down in our district, but we have no particular recommendation concerning it.

KERR: Are there any operators in your district in New Mexico who follow the practice that is apparently followed in some of the districts in southern Arizona of shipping in young calves, three or four months old, and putting them out on the range?

BROWNFIELD: Yes, they do, however, it's ranchers that have permits and they go by number. They are adhering to rules and regulations on the range.

HUGHES: Mr. Mead will now discuss access to public lands.

BUREAU VIEWPOINT ON ACCESS TO PUBLIC LANDS
(CHARLES P. MEAD)

The last few months we've had considerable publicity focused on the question of access to public domain land. I'm sure most of you are familiar with several actions that have taken place which have helped attract attention to this situation. In Colorado there was an interim legislative committee appointed last year to make a study of access to the public domain and in their report they say there are over a million and a half acres of public land in Colorado controlled by private interests. Going further, without reading the whole report, I think that it's only fair to say that the interim committee will ask the people of the counties in which this problem exists, to tackle it on a local level. Sportsmens' spendings play a vital role in that State's economy, and there's a hope that a program of cooperation among all concerned can be worked out. There was an unfortunate incident in eastern Oregon last fall where a private outfit established a system to charge a fee for hunting on private lands and included in the area were several isolated tracts of public domain which received a lot of publicity. However, the corrective action taken by the Bureau in properly posting the land as Federal land did not receive the same degree of publicity as the incident in the first place. There have been many newspaper articles about this problem of access. There have been resolutions requiring licensees and permittees to execute an agreement for access, and right now there are also several proposals to legislate on this question of access.

We would like to state briefly our viewpoint on this problem. It is the policy of the Bureau to manage and to protect the public domain and provide for the full use and enjoyment of all legitimate users including hunters and fishermen. We do not underestimate the importance of providing public access to the public domain lands. We do believe, however, that it is not so much a question of establishing a new policy, but rather of clarifying and explaining the existing policy as developed within the framework of law and regulation. As all of you are aware, the Taylor Grazing Act specifically points out that public domain lands being administered for grazing purposes shall remain open to hunting and fishing. The Bureau has always carried out this policy and has never condoned actions by its permittees or licensees leading to the deliberate blocking of access or use of public domain lands. At the same time the Bureau has been required to recognize the rights of private landowners as provided for by laws in the States in which they reside. It has been generally recognized that the matter of securing access to lands across the lands of others generally falls within the province of authorities exercised by the various States. Laws on this subject vary according to States.

In further clarifying our policy concerning access to the public domain we feel that it is very important to point out that there are several types of such lands. Larger blocks of public domain are to be found within the organized grazing districts and are usually subject to more intensive management, both as to the use of the range and the forest and mineral resources contained therein. On the other hand, outside of the organized grazing districts, and usually not under intensive management or under more extensive management, are to be found a large number

of scattered tracts of public domain, many of which contain only 40 or 80 or 120 acre units. Therefore, in analyzing our access problem and discussing our policy, it is really important to relate it to the pattern of public domain concerned, whether it be large blocks within these districts or the small scattered tracts.

In the first instance, we believe the following steps should be taken to provide access to these particular public lands. First, every effort is being made by the Bureau to obtain the cooperation of local sportsmens' groups, private landowners, permittees, licensees, State fish and game commissions, other State units and the general public in working out access to the public lands. It is imperative that all of the parties concerned recognize the rights of private landowners in respect to the protection of their property. This cooperative method of obtaining free access has been successfully used in the past in many States. We believe it is the soundest approach to a solution. We think that approach is reflected by remarks of the committee in Colorado. A second approach, closely related to the first, employs reciprocal rights-of-way agreements, negotiated between private landowners and the Bureau. This method, however, is only applicable where both the Federal Government and the private landowner have a resource that both want to utilize and are willing to negotiate rights and interest in a common right-of-way. These required rights-of-way can then be made available to the public consistent with the primary purpose for which they were obtained. We're all familiar with this approach in the O & C Forestry lands in western Oregon. There's a question of utilizing vast timber resources, both of private and public lands, and through these reciprocal use agreements construction of access roads afford the opportunity to market both private and public timber. A third approach is through exchange-of-use agreements or the exchange of lands. These methods have been frequently used. Once an exchange has been negotiated resulting in obtaining free and open access, the results are far more satisfying to all concerned. A fourth approach is the construction and maintenance of access roads by the Bureau. The most expensive types, of course, are the logging roads that we built on the O & C land and that's in direct connection with these reciprocal use right-of-way agreements, but on the other hand, many miles of low-cost range access roads have been constructed within the organized grazing districts. I believe the continuation of this program will help ease somewhat the problem of public access. The fifth and final approach of obtaining access to these larger blocks, and we are discussing right now the larger blocks of public domain, is through power of eminent domain. When all the above approaches have failed to obtain the required public access then rights-of-way could be condemned by the Federal Government. This method should be used only after all attempts to obtain these rights-of-way have failed.

The matter of obtaining rights-of-way across private lands to scattered and isolated tracts of public domain outside the organized grazing districts present an entirely different type of problem. These tracts, being isolated and in many instances less than 120 acres in size, are subject to application for purchase under the public land laws. They are more often sought by the general public under the provisions of the Small Tract Act for lease or purchase. Many of these tracts can be

acquired by public or semi-public agencies under the provisions of the Recreation and Public Purposes Act. A large proportion of these isolated tracts are leased for grazing privileges under the provisions of section 15 of the Taylor Grazing Act. There we all know about the preference right of the adjoining owner or stock raiser with a demonstrated need. The management of these lands for grazing purposes is more extensive in nature and primarily rests upon the cooperation of the permittee. Also in comparison with the larger blocks of public domain located within the grazing district, it must be recognized that these small isolated and scattered tracts do not provide a large population of game animals. After you get there, what do you have? It would not be practical to expend either sportsmens' money or State funds or to use arbitrary condemnation proceedings to acquire access through large areas of private land into these small scattered tracts. However, there may be some exceptions notably those instances where these small tracts may afford the only public use areas along the banks of streams or a body of water. In such instances, however, the cooperative efforts to obtain rights-of-way would certainly be to and within the public interest. We found in some cases that it has been possible to stimulate the interest of a local governmental unit in acquiring lands under the provisions of the Recreation and Public Purposes Act. In addition, the Department's recreation policy requires that such public domain tracts, where they have a high use for public recreation, will be retained in public ownership pending acquisition by a public agency other than the Bureau.

As you can see, the problem of obtaining access to public lands has many facets and ramifications. I'm sure we all agree that continuing pressure is going to mount on this question, not only to public domain but some attention has already been focused on other types, such as national forest lands. We think that we need a better explanation of our policy; at the same time we want to protect the rights of individuals.

DISCUSSION

LEE: One thing more important than access is that people come in with oil equipment on the public lands and tear it all to pieces and do enough damage to take a hundred years to overcome. In New Mexico we handled that by forming a code of ethics. We got all the oil and the range people to agree as to where they go in and how they would build cattle guards and roads, and what they would do with the equipment after they got in there. That worked very well. It's done very well in the northwestern part of the State. Another important thing you left out is these uranium people. They thought they had a right in there. They just want to tear up the whole country. I wouldn't let them come in, because I feel where I have a piece of public land it's my duty to protect it, and not allow somebody to destroy it. That goes for hunters as well. Where an automobile goes back and forth two or three times, a rut is started and the grass is killed. We won't permit that. We feel it is our responsibility to protect that range and that's what we're doing. We will not allow a hunter to drive all over and do whatever he pleases.

MEAD: I don't feel, Mr. Lee, it's a question of leaving it out as much as we're trying to direct this toward the immediate problem that has been focused on us by hunters, fishermen, and organized sports groups about access for hunters and fishermen. I think that in other States too, they followed the example of New Mexico and were quite successful in the code of ethics in dealing with these oil and gas people. As for uranium, the boom is over, so we've had some relief from that. I think our principal point is that we feel we can work this out better with management and cooperation, rather than through legislation or drastic efforts to force and demand access to all public lands.

LEE: I agree with you on that part.

HORN: This interim report from Colorado is a most ridiculous thing. The State game and fish commission has been very close with a lot of the people and we've had a lot of studies made. The legislators on this committee were short of time to make a study and they asked for some records from the State commission. There are many inaccuracies in those records for the country I knew. There's a lot of country I don't know, but if it is that bad all the way through it is ridiculous. There should be a way to get some cooperation between the livestock people, the sportsmen, and the State fish and game department. I think it would do a lot of good.

MEAD: I referred to this report because the Denver Post and other papers have quoted from it and stirred up a considerable amount of interest in this access problem. We believe this problem has to be worked out, especially in these large blocks, through cooperation with the sportsmen, wildlife people, and local groups.

O'CONNELL: We're faced with the problem in Montana of getting hunters to go into districts that are hard to hunt. They concentrate on areas that are easy to get into. It's sure discouraging when your area gets overpopulated with game. On one hand you want the herds reduced and on the other hand you tell the hunter he can't hunt. I think ranchers should take the position that hunting is needed. It's the only way you're going to control elk, deer and antelope. What we need is more publicity to really get the hunters in there. If we're going to shut off access roads, we're not going to get the cooperation of the hunter. Game has to be harvested, just the same as your sheep and cattle have to be harvested.

HUGHES: I don't know if it's true everywhere, but the hunters that come onto our lands lose all sense of respect for private property. That's one of the main problems. They never drive through the gate, they drive through the fence. They take down a pole fence, they seldom put the poles back. They don't worry about what they do with their refuse. They come out with their guns for a good time, and they lose the sense of relationship that those same men have in town and in their own homes. That's what the owners of land and livestock are complaining about in our territory. Someone should try to educate these hunters that even though they are hunting they are still on private property and the owner of the property has some rights. During hunting season we lose several head of cattle, mistaken for deer. The decent thing for them to do with a dead cow or calf is to report that

matter and pay for it, but I have yet to see that done. We have a law which provides that the fish and game department will pay for damage done by wild animals in eating our haystacks and so forth. They are now trying to get that law amended so that anyone who posts his land is not eligible for payments. True, we want them to hold down the deer and elk.

MEAD: We agree wholeheartedly with your point of view and we recognize fully that cooperation is a two-way street. You can't work it one way, and I don't think the problem is peculiar to our public domain, it's a problem that occurs throughout the United States, the hunter versus the private landowner. Some States have been a little more successful than others.

NOBLE (Wyoming): I think sometimes we blame the wrong people. We can't blame the sportsmen all the time. We can't class everyone from the city a sportsman. All we class as sportsmen in Wyoming are those who belong to affiliated sportsmen clubs. These other people that go out and kill people and tear up pastures and things like that we don't claim. I think we should separate them just a little bit. I don't think we should blame people until we're right sure who did it.

SCHARFF: I think the condition we have been talking about is prevalent wherever there is any form of recreation. It isn't tied entirely to hunting. I think it's the minority with which we're dealing rather than the majority. It is a matter of education. The State of Oregon employs personnel to teach youngsters how to hunt, how to respect other people's property. I think that's how we should proceed to solve the problem. Sometimes we have to educate the man right along with the boy from the city.

KNAGGE: In Arizona the game and fish department has a firearm safety course. One person is assigned to it and they are doing a lot of educational work. We still have depredations by people in the field. Being a tourist State, we have depredations in our picnic and recreation areas that are not committed by hunters. We also have shooting of road signs along the highways going on all year. In Phoenix, we've heard complaints about shooting up water troughs and everything else. So I think it's not confined to any one group. It's just people. Instruction and education would help in eliminating the problem.

LEE: I make a move we adjourn until morning.

HUGHES: All in favor say Aye.

Thursday, February 26

Chairman A. D. Brownfield, presiding

We are honored this morning to have some visitors here. We are going to ask the Director to introduce them.

WOOZLEY: Gentlemen, we are certainly pleased to have as many Congressional people down here as we have. We have several Congressmen. So far, I don't believe we have any Senators, but we do have some Senators' representatives with us. Of course, one of the persons we are always glad to see, one who has been a great friend of the Bureau and livestock operators, is Congressman Dixon from Utah. We would like to hear from Congressman Dixon.

DIXON: This is the fifth straight year that I've attended this meeting, gentlemen. At every meeting I have certainly been enlightened and my visits on the public domain have been even more enlightening. I'm certainly glad to see our State Senator Bry Stringham here. He's the type of man we need, and you've done for him a remarkable reseeding job. I went all over his range. He has increased his carrying capacity five times. If we can increase the carrying capacity of our ranges that way, that's what helps. I wish we could accelerate this reseeding program. It's getting a little like the story they tell about the Washington Monument where they had a little fire in the basement last year about this time. There were two drunks on the corner. One said, "Oh look!" The other one said, "Don't worry about that, I bet you ten dollars to one the damn thing never gets off the ground." Now this reseeding program isn't getting off the ground fast enough to suit me, because I'm sure that would go a long way to iron out our difficulties and stop appeals. In the second place, I'm definitely opposed to the Wilderness Bill. I believe in this principle of multiple use. I believe you're fundamentally sound there.

The Government owns 72 or 74% of the land in our States. We can't put much of that in deep freeze and not use it for anything, or we're broke, that is all there is to it. I think the Lord Almighty gave us the land to use, for man's benefit and not to put it into deep freeze. I'm very much in sympathy with this advisory board. I've testified for our forest people and sat with them three times in the past in Ogden, pointing out the great work that this advisory board can and is doing for the Bureau of Land Management. I'm hoping that we can get the same thing with the Forest Service, because we have so many cases being appealed and so much difficulty. I know the principle of multiple-use places a responsibility on you from several angles, but I hope we can hold the line.

WOOZLEY: Thank you, Congressman. We are always glad to have you here. Another Congressman with us that we're certainly glad to see this morning is Congressman Harold T. Johnson from California. We'd like to hear from you, Congressman.

JOHNSON: I'm a newcomer to Washington, and I want to thank you for the invitation to attend your meeting here this morning. I'm just going to sit here and try to learn something of your problems.

WOOZLEY: We have a representative from Senator Clair Engle's office here, Phil Dickinson.

DICKINSON: Mr. Engle asked me to report that he was sorry that he couldn't be here today, but not from lack of interest.

WOOZLEY: We have a man representing Congressman Johnson of Colorado, Jim Thornton. Maybe you'd like to tell us about your district and your Congressman.

THORNTON: Mr. Johnson is at a statue dedication, so he asked me to come over here and sit in today. He wants to express his sincerity in helping wherever he can and lending his assistance.

WOOZLEY: We have another Western friend who is represented here today. I'm sure Senator Moss of Utah would like to be here, but his press secretary Grant Midgley is representing him.

MIDGLEY: Senator Moss is unhappy that he couldn't be with you. He had a hearing this morning and goes to a session at noon. He sent me to listen and learn what I can. The Senator will be with you tonight. I'm sure you know of his interest in your problems. He attended the hearings in Salt Lake City on the Wilderness Bill and is quite familiar with some of the arguments on that. It's a pleasure for me to be here with you this morning.

WOOZLEY: Another man with whom we have a good deal of business is here to represent Senator Clinton P. Anderson. We are glad to have Claude Wood with us, and would like to have him say a few words.

WOOD: The Senator asked me to bring his greetings and his regrets that he couldn't be here this morning. One of our New Mexico constituents here this morning said that he heard he was up in space, on the Space Committee. I think most of you know pretty well how the Senator feels about your problems, especially those from New Mexico and Arizona.

WOOZLEY: Senator Cannon from Nevada is represented here today. We'd like to have you speak.

WALKER: The Senator asked me to represent him. He's interested in your problems, and he will be with you tonight. I'm here to learn more definitely about your problems, and we hope that we can be of service to you.

WOOZLEY: John Rhodes from Arizona is represented here today by Dr. Arthur Lee, and we'd like to hear from you, Art.

LEE: Thank you, I also bring Congressman Rhodes' regrets that he can't be here as he is very much interested in your problems. So I will listen to everything that goes on and report to him. It's a privilege to be here, and I'm happy to have the opportunity to meet you gentlemen.

WOOZLEY: I'm sorry my own Senator, Senator Dworshak, is unable to be present. We are pleased, though,that he is represented by one of his

assistants from St. Anthony, Idaho, Keith Jorgenson.

JORGENSON: The Senator acknowledged with appreciation your invitation to be here this morning, however, other duties have called him. He plans to be with you this evening at dinner. He was in Salt Lake City for the hearings on the Wilderness Bill and fully appreciates the problems involved in that bill. He has a great interest in this bill as in other legislation and problems of the range areas.

WOOZLEY: It's not very often that we have a man here that was formerly with the Bureau, who is representing a Senator, but in this case he not only represents one, but three - Senator Murray, Senator Mansfield, and Senator Neuberger. I'd like to ask Bob Wolf to come over and speak a few words. Now, Bob, you can have three times as much time as anybody else.

WOLF: I'll just take one-third of the time. The Senators have asked me to come down and listen for them, hear your views, and report to them. As you know, they are all interested in the problems affecting the range in the West. I'll be glad to talk to any of you who want me to relay anything to them.

WOOZLEY: Frank Mensel is representing Congressman King from Utah. We're sorry the Congressman couldn't be here but we are glad that you are. Would you like to say a few words?

MENSEL: I'm afraid not. I'm just a good listener.

WOOZLEY: I suspect we have the greatest number of people representing Congressional offices that we've had in the past six years. I think all these people are interested in the operations of the Bureau. They may be able to answer questions you might want to ask about particular districts. And they may want to sit in and listen to discussions you have programmed for this morning. So I think, Mr. Chairman, that if there are any questions the Council members would like to ask the Congressmen or Senators or their representatives, they are available for whatever information they might be able to give. Or, if there are any of you gentlemen who would like to ask questions of representatives concerning wildlife and livestock in these Western States, I'm sure they'll try to answer your questions.

BROWNFIELD: I'm going to make one observation. We are very pleased that you have taken an interest in this Wilderness Bill, because we feel certain that it should be delayed. We would not like to see these lands go out of multiple-use. Another thing I would like to mention is that almost every issue of the Federal Register contains applications for more land. Of course, that's the responsibility of the Secretary of the Interior, but neverthless, there's a limit. Senator Engle proposed and had passed a bill which we refer to commonly as the 5,000 acre limit bill. It hasn't done much good so far in stopping applications. For small tracts, it hasn't done any good. I wish the gentleman here who represents him would carry that back to him. Perhaps he would be interested in amending that law to reduce the acreage. There's a tremendous amount of land being applied for by various agencies. We feel they don't need it. Our State agencies are buying land and taking it off the tax rolls. We would like to see more put on the tax rolls.

KNAGGE: I'd like to echo your thoughts concerning the Wilderness Bill. I guess that some people think that all wildlife people are in favor of it. My personal attitude toward it is that it's something the West cannot afford. I think that there are certain people who are promoting it who don't realize what a crippling effect it would have on multiple-use principles in our Western lands. I hope that the Arizona Senators and Representatives will think very carefully before they vote in favor of that bill.

BROWNFIELD: I want to say to you gentlemen, that Mr. Knagge is a wildlife representative who works on our board. You can see our wildlife representatives are also aware of multiple-use.

WOOZLEY: It's my pleasure to introduce at this time the first lady visitor we've had. We're certainly glad to have her here; Miss Olson, from the office of Congressman Porter of the State of Oregon. We'd like to have you bring us a word from the Congressman.

OLSON: It's a privilege to be surrounded by so many fine people. Mr. Porter is sorry he couldn't come. He did have previous engagements, but he sends his greetings. He is well aware of the good work you do and is also aware of many of the problems which are confronting you. Right now we have many letters from our district in Oregon concerning, for example, the proposed range cuts. It is something Congressman Porter hopes to work out with you in an acceptable way. He hopes that you will keep in touch with him.

WOOZLEY: I certainly would like to echo the words Miss Olson just said. Congressman Porter does come from a district where we have many, many problems. We are certainly glad you are here.

BROWNFIELD: Anyone else?

VAUGHT: I would just like to say this in the presence of our Congressional delegation. We feel that Ed Woozley has done one of the most outstanding jobs for the Bureau of Land Management and the Department of the Interior as far as the grazing lands are concerned of anyone who has ever been in his office. We are very happy to have him back here, and we hope that he is able to stay with us for a long time to come.

WOOZLEY: Thank you, I surely appreciate that. We get quite a few words the other way. A photographer will be here at 10:30, and we certainly want all the Congressional representatives here with the board for a picture. You people over on the Hill certainly have a tough problem to solve, because people from all sides write to you, and it's pretty difficult to determine which are the true facts in every case. We're here to assist you all we can.

STRINGHAM: Am I to understand from the gentleman representing Senator Anderson that the Wilderness Bill is buried this year?

WOOD: Judging from the amount of mail we get in the office, you wouldn't think it was dead, but some people who were in yesterday were saying it is.

And I said that was the first I knew of it. They were giving our office credit for burying it. I don't know what's going to happen to the Wilderness Bill, but I know that there has been the feeling in many agencies, including my office, that this thing should be delayed until after the Recreation Resource Review Commission completes its study.

LEE: We would like to attend the funeral, if you're going to bury it.

WOOZLEY: It's always a pleasure to have Congressman Keith Thomson with us. I know how difficult it is to take time out to spend at this meeting, but we certainly appreciate having him here. He always has a keen interest in the problem of the West. Keith, we are certainly glad you're here and we hope you have a few minutes to talk to this group.

THOMSON: I realize that you people have a lot of things to consider. One of them that I think is of utmost importance is the question of making cuts in the Taylor Grazing lands. I personally have been of the opinion that we should go into detailed studies before we move in on that. During the Appropriations Committee hearings for the Department of the Interior and the Bureau of Land Management, we tried to bring that out. I heard some discussion here on the Wilderness Bill, and I too have been concerned about it. There has been pressure to get a Wilderness Bill before the Recreational Resources Review Committee studies are completed. I do hope that any legislation in that field can be withheld until such time as their report is made. We're following a little different approach in the Appropriations Committee this year. There's a special committee for consideration of all supplementary requests. I understand that there is something in the wind to bring up a request for about a million dollars to start the work of this Outdoor Recreational Resources Review Commissions. As we went through the budget for Interior and for the Forest Service very quickly, I could pick out a million dollars in this budget for the same type of study. At least that's the request for this year, and in the past they have expended similar amounts making such studies. So I think that should be looked at quite carefully. I don't think they have a realistic basis, at least in the State of Wyoming, for appraising the carrying capacity of the lands at this time. I just had word yesterday in talking with Duard Jones of Thermopolis that the Wyoming Natural Resources Committee got some funds from the State Legislature this year, and they want to cooperate in some studies on the public lands. I hope that can be done. If you need some money in your bill to provide for these studies, I'll be very happy to work with you on it.

WOOZLEY: Thank you very much, Congressman Thomson. You've done us a lot of good and we appreciate your support. I think the photographer is here now. If we can line up, we can have a picture of this group. We certainly do appreciate you people coming over from the Capitol and taking time to meet with us.

A long time friend from Idaho, Porter Ward, just came in. He's with Senator Church. If you have any words to say to this advisory board, we'd like to hear from you.

WARD: It's nice to be here. I'm just here to listen and that's what I plan on doing. Thank you.

WOOZLEY: I want to introduce Mr. Manatos of Senator O'Mahoney's office.

MANATOS: Senator O'Mahoney is particularly interested in the Taylor Grazing Act administration. Besides being on the Interior Committee, he is now on the Juridiciary Committee of the Senate which handles half the legislation that goes to the floor of the Senate. One of its important subcommittees is meeting this meeting this morning. He has asked me to be here in his place. I'd like to say I come from a ranching family, and my family operates on the Taylor land so I have a little knowledge of your problems and a great deal of sympathy with them.

WOLF: Earlier your Chairman mentioned that wildlife representation has been added to the Council. I was just wondering, in view of some of the conflicts we have up on the Hill where various groups come in and say they want to do this or that on the public land, and sometimes we find two people who have conflicting interests in the same area, whether there might be some value in this Advisory Board of having a representative from the timber industry, the mining industry, the water users, and perhaps others, who would be able to sit in and participate and listen to your problems and in that way bridge some of the gaps that may exist from time to time in understanding what your problems are and whether they could take the problem that you have back to their group and explain to them what your point of view on it is.

LEE: I could answer that as far as New Mexico is concerned. There are three wildlife representatives on this board from three different areas. As far as the Taylor Grazing law goes, there is very little conflict with timber or mining. We did have a tremendous conflict with oil industry when it first started tearing up the country, and we had a conflict with the uranium people when they started destroying the country, but we soon got those ironed out. We worked out a Code of Ethics with the oil people which spelled out what they would do in their areas. We did have quite a conflict with the seismograph people coming in and drilling holes and blowing up the country and letting the water go down into different strata, but that has been mostly stopped now particularly in the Western areas. The uranium people are core drilling tremendous areas. I think in most areas where they are drilling they are required by State law to seal these holes. We have conflict with the wildlife and wilderness people because we believe in multiple-use. There would be no use in having a wilderness member on our board because they are opposed to multiple-use, and there would be nothing that they could accomplish. It's a multiple-use law we're working under, and I don't think it would help as far as we're concerned in getting anybody else on the Council; but we are glad to have the wildlife people represented.

HUGHES: We would definitely oppose and hate to see any congressional section amending the Taylor Grazing Act broadening the base of the advisory board system. So far as inviting and having representatives sit in with us from time to time on the board without any vote, we wouldn't have any objection.

WOLF: I wasn't suggesting a revision of the law, but wonder if you would just have them here listening to your problems.

HUGHES: For quite a while we invited the wildlife representatives to sit in with us. I don't think we'd object at all to having them sit in and confer with us from time to time on various problems, but in regard to our grazing matters, particularly our multiple-use grazing problems, we wouldn't want them to have a vote.

KNAGGE: I think the matter posed here might have a tendency to water down this board which is a grazing board, and we might make something else out of it. There have been proposals that various boards have representation of all users of the land, but I believe that inasmuch as this is a grazing board and is concerned more with grazing and wildlife perhaps the present representation covers it pretty well. My suggestion would be that in the districts and at State levels there be more effort and cooperation with these other agencies.

NOBLE (Wyoming): We should have somebody here to represent the different fields of interest like oil and minerals and timber. I think they should get in on these meetings. We're all striving for one thing and that is to try to preserve our natural resources.

WOOZLEY: Does that answer your question, Mr. Wolf? I think what you had in mind was that representatives of these groups be invited to come to the National Advisory Board Council and sit in with us. We usually invite various representatives of other interests, and I think other users of the public land could very well benefit from what we do here. But as far as having them on advisory boards at the district or State level, I'm sure this group would oppose it.

LEE: But we do want them to come and sit in. We do invite them always.

WOOZLEY: We have Mr. Frank Mensel who was introduced earlier from Utah. There is proposed legislation which certainly affects the public land which he would like to ask you about.

MENSEL: The Congressman was very sorry that he could not be here personally because as some of you know his previous commitments prohibited his participation here this morning. Senator Moss from Utah has presented a bill which would remove the 640 acre restriction on advances of public land for State Park use. We have been studying this bill and thought of perhaps introducing companion or similar legislation on the House side; but of course we want to be entirely aware of the position of this Council on such legislation and if you have any expressions of sentiment about it we would like to receive them. We don't want to move on this until we have received some background from constituents such as represented here on this Council.

STRINGHAM: In our legislation in Utah we now have a bill expanding our parks. We are very much in favor of this bill, and we'd appreciate very much its going through.

BROWNFIELD: I go along exactly like that only 100% on the other side.

MENSEL: As Mr. Stringham has said, there is deep concern about expanding

the State parks in Utah. The bill would make additional lands available to the State without paying for them.

BROWNFIELD: I'd like to see a bill where the State would buy these Government lands.

LEE: Senator Anderson's bill established a Commission to study the park needs of the nation, and most of us feel that until the study is completed a bill of this type should be held over. The study, I understand, will take two years.

BROWNFIELD: In New Mexico we have about all the parks we need for the population for many years to come, but we feel that a study should be made to see how it affects our economy.

SWALLOW: I believe that expresses the view of the livestock industry. We feel that unless an area has something of extraordinary importance and meaning, it doesn't justify freezing all the resources in an area for all time. We believe that all areas should be put to productive use. There may be strategic minerals that haven't been discovered at this time that in the future might be of great value as far as the local economy and the nation as a whole are concerned. Not only that, but when these parks are created, we in the livestock industry suffer for a radius of many miles. They make it impossible to operate a livestock business.

STRINGHAM: Our State parks law is a multiple-use law. There will be no changes whatever in mining or grazing. On the State Board we have livestockmen who watch our interests and do not allow areas in strategic positions for livestock to go into parks.

KNAGGE: I did quite a bit of work in trying to get the State parks' bill organized in Arizona, and I know the stockmen-sportsmen committee was very active. We knew at the time the bill was being promoted there were some very ambitious people interested, but restrictive provisions were included on the bill.

MENSEL: Would the Chairman's suggestion be an acceptable condition under such a law. That is, if the States have to pay for land over the 640 acre limit? This would remove the possibility, I think, of tying up large tracts of land without definite purposes in mind for it.

CALLAHAN: May I ask a question of the Director. The bill has probably been sent down for the Department's comments. Are you free to say what you think the Department may recommend?

WOOZLEY: Not on this particular bill, Mr. Callahan. We were in favor of what we call the amended Recreation and Public Purposes Act. That act covers many more things than State parks. It permits counties, State or Federal agencies to acquire Federal land for public use at a reduced price, taking into account the use for which it will be acquired. The fair market value is the base. There is a 25-year revision provided. It must be used for the purpose for which it is acquired for at least 25 years or revert

to the Federal Government. Land can be purchased under the present act for as low as 30% of its fair market value for a public purpose. That law, in my opinion, is a good law and it's working satisfactorily with the exception that no more than 640 acres in any one year can be patented to any firm, corporation or organization in a county. In the case of State parks, that is not sufficient. We have a bill in the Bureau of the Budget right now which would permit States to acquire more than 640 acres in any one year. The restriction is that the State must have a plan. If they have a plan for a State Park that seems justifiable for classification, we have no objection to enlarging it to more than the 640 acres. We do believe that the phrase in the existing bill that no money would be paid would encourage applications for large acreages without sufficient plans for justifying it. I think the States should be permitted to have as many acres in State parks as they draw a program for, and are willing to pay for, under the existing formula.

There are three ways of acquiring land for recreation. First is where for only a two or three month period it is needed for camping, hiking or picknicking, and maybe it's being grazed in the fall and spring and maybe it's timbered which will eventually be harvested. In this case it can be given to a community, or a group, or a State under special land use permit. They will build the recreational facilities and maintain them. The Bureau would manage the land the rest of the time for multiple-use. Second is where a State has a program for State parks and they actually show that they need it but don't have the money, which is the case of many western States. Here we can withdraw the lands from entry pending the time the States will have money to operate it. The third is where under the amended Recreation and Public Purpose Act they buy the land for a recognized plan of development, but they would have to use it under that plan at least for 25 years, and they would pay anywhere from 30% to 100% depending upon the use being made of the land.

MCKNIGHT: Would that land still stay under multiple-use?

WOOZLEY: No. If they got a deed to it, they wouldn't have multiple-use on it. If they were going to mine it or graze on it or cut timber on it, it would then be a commercial enterprise and not for public use. We have to limit the uses. It's been said we have no recreation program, but we do. The Bureau of Land Management has a cooperative program in which we deal with cooperative groups, with towns, counties, States and other Federal agencies. We don't want to go out and spend Federal money by the millions of dollars on these millions of acres of land to build campgrounds and maintain them. We would prefer to have the local agencies acquire them and manage them. Our lands are not reserved. They are there for a higher use when it can be developed. National Parks, Fish and Wildlife and National Forest areas are reserved land and will be kept in Federal ownership. They are justified in spending Federal money on recreational programs. We prefer to deal on cooperative programs with local agencies, State agencies and Federal agencies.

BROWNFIELD: We will adjourn until 1:15 p.m.

FINANCING RANGE IMPROVEMENTS AND ACCESS ROADS IN MULTIPLE USE AREAS
(L. R. NADEAU)

This is a subject we suggested in Area 1. I'm sure it doesn't apply just to Area 1. Some of the other States have the same problem. In Area 1, the districts are expressing the need for improvements which are beyond the limits of the present availability of project funds. As range adjudications are completed, the licensees have increased their requests for range allotments. In most instances allotments are practical and consistent with the Bureau of Land Management program. Fencing costs are high, and also additional water developments are needed before divisional fences can be put in.

Since the CCC program, which terminated in 1942, the Bureau has not had an effective road construction or maintenance program in the grazing districts. Most of the roads in the districts, except those maintained by the States and counties, are very poor and getting worse. They are not being maintained. Road use is steadily increasing and more interest is being shown by the public in keeping roads open and usable.

At the present time administrative fencing, water development, roads and similar projects are financed principally from contributions, range improvement and advisory board funds. Both range improvement and advisory board funds are limited and are usually used to finance maintenance on existing projects. We've got enough projects to maintain in most districts to use all that money. The use of S&M funds is improper in those instances where projects consist primarily of range use facilities. Annual program submissions for range improvement funds are limited to 25% of anticipated collection of the grazing fees, and no requests are authorized for access road funds for other than timber access roads. Each year it is necessary to strike out well justified requests for improvement funds submitted by well-meaning district managers. I think most of them feel they actually need the projects they are proposing. Even those roads constructed from timber sale receipts or appropriated public domain forest access funds, on completion of logging operations become a maintenance liability against available range improvement or fire control funds neither of which we have very much.

The roads are highly important to the Bureau's administrative and fire control program following logging operations. We have a fire problem to begin with, after we get the timber cut off and a lot of slash on the ground. Fire control funds are not available from which to finance needed maintenance. These roads are heavily used by the public, particularly during the hunting season. Unless the roads service ranch headquarters or other important tax base lands, the counties are reluctant or refuse to assume their maintenance. We have been successful in a few instances in getting the counties to take over the roads after they are built. In the State of Oregon, the Bureau has constructed an appreciable mileage of high standard logging roads both inside and outside grazing districts for which no definite provision is made for upkeep and maintenance, except in the O&C areas. This mileage is increased year by year. Each time we make a timber sale there is usually another mile or two or roads constructed to get the timber out, and as soon as the logger

pulls out, he is no longer interested in keeping up the maintenance.

The district managers feel that the problem gets more serious as years go by and that we're not giving sufficient attention to this phase of the improvement development program. The National Advisory Board Council meeting seems a good place to discuss the problem in relation to grazing district programs. It would be helpful to the districts if constructive suggestions for meeting the improvement problem could be developed during this meeting. It's becoming a real problem and I agree with the districts that it's growing. Each time we get a segment of road constructed that isn't maintained we have another additional problem, not to say anything about the roads that we ought to build but are not building. I don't know how much help we can get through the sportsmen's groups on some of these access roads. If they're usable by one group, they're usable by another. After we get them built, somebody's got to keep them open.

DISCUSSION

VAUGHT: We have quite a road problem in our area. The county maintains and does a pretty good job until hunting season opens up. Thousands of cars go out and by the time hunting season is over you can hardly get over it with a jeep. It's the time of year when cattle are trucked out also. We tried to get the game department to contribute to it, but we're not making any headway at all. We think that they should, because it's the use by hunters that is tearing up the roads.

LEE: A peculiar thing in all Western States is that the law requires that wherever the United States mail is carried, it automatically makes it a county or a State road.

ESPLIN: In our area, we have spent some range improvement money on roads, but have been told that that wasn't what range improvement money was for since it's a convenience and not an improvement when you fix the roads so people can get over them. That was the Department's feeling on it.

KERR: In some cases road building could be listed under improvement, because they are necessary in order to permit improvements in the back country. In that instance, the use of range improvement money would be perfectly proper.

LEE: Under our conditions, a road is absolutely a range improvement. Most of us are motorized now. We even make the Government employees when they come on our lands stay on the road.

SEELY: I think Mr. Nadeau has touched on a very vital matter that's important to every grazing district in every one of the States. Over the years, when they had CCC camps, there were lots of roads built. Since that time we've had the uranium boom, the oil boom, and seismograph operations under which roads have been built. As soon as they move out, there is nobody to maintain the roads except BLM. Range improvement money isn't enough to build roads and maintain them. Some of the counties, with the road money that they have, are unable to maintain them. Now the roads are there and the Bureau is being criticized for not maintaining them.

VAUGHT: There have been some suggestions made that maybe some of the juvenile delinquency in the city could be corrected by reestablishment of the old CCC camps. I read in a local paper not too long ago where Senator Church from Idaho had sponsored a bill to set up a youth conservation center, something that would be very much along the line of the old CCC camps. Something like that might come to pass, and if it does they could be used for maintenance and building of roads.

FAULKNER: I was wondering if, under this increased grazing fee, there would be any chance of getting a larger per cent for improvements.

KERR: That would require an amendment to the Taylor Act.

BROWNFIELD: Mr. Hochmuth is next. We'd like to hear from him on Federal Land Withdrawals by Government Agencies.

FEDERAL LAND WITHDRAWALS BY GOVERNMENT AGENCIES
(HAROLD R. HOCHMUTH)

At the beginning the Director gave you some current statistics on the withdrawal situation, and I won't repeat them, but I might bring you up-to-date on the operation of Public Law 527 or the so-called 5,000-acre bill. Perhaps the most significant thing that developed this past year is that the Bureau has embarked a little more on a withdrawal review program. We've been doing a little about it, but the Secretary in this past year has issued an order which is now in a Departmental Manual and sets up certain responsibilities. Perhaps the most significant thing is that it withdraws the authority from Bureau Chiefs to make withdrawals, and it now rests in the Secretary's office with Assistant Secretary for Public Land Management Ernst. That is probably a very significant thing in the sense that it's changed our procedure somewhat. More importantly it sets up a high policy level for withdrawal and reservation of public land. Secondly, the Secretary has now said that the Director of BLM is responsible for the review of all withdrawal proposals. He must be sure that the maximum multiple use is to be permitted on those lands if they are to be withdrawn. The Director is required to report to the Assistant Secretary on the beginning of each fiscal year on withdrawal activities. We haven't operated very long under this system, and we really don't know the extent of the goal. There is a definite tightening up by this order on public land withdrawals. Last year the Secretary of the Interior agreed to transmit all non-military withdrawals over 5,000 acres to the House Committee on Insular Affairs for their review. The present chairman of the House made a similar request again in this session of Congress.

There is under consideration legislation to amend the Military Withdrawal Bill, to cover not just military withdrawals but all withdrawals. The military has requested an area in Nevada which falls within the Desert Game Range.

LEE: The Forest Service has been withdrawing a tremendous amount of land in practically every issue of the Federal Register. Now as I understand it, the Secretary's Order will require that if they do withdraw land it's got to be for multiple-use. Is that the correct understanding?

HOCKMUTH: Yes. We're to insure multiple-use insofar as possible. You recognize that the Forest Service withdrawals, with very minor exceptions, are withdrawals through the mining law and not from other things.

LEE: I thought they were all total withdrawals. They were all either forest cabins or places where they've reseeded or something else.

HOCKMUTH: The national forests are already in a withdrawn status. They're not subject to the public land laws.

LEE: Just the mining law, now?

HOCKMUTH: Yes, with very minor exceptions.

VAUGHT: It's my understanding that in a case of withdrawal for military

use of public range areas the permittee may or will be reimbursed for his losses.

PIERSON: Compensation for loss of privileges applies to the land withdrawn for war or national defense purposes.

VAUGHT: For the land that is being withdrawn in the Atomic Reactor area in the Idaho Falls district, I understood there hasn't been any determination made yet whether it is for military purposes, national defense, or something else.

PIERSON: National defense.

VAUGHT: It has been determined and they will be reimbursed?

PIERSON: The Comptroller General has ruled that there's a difference between licenses and permits. So we have variations in compensation.

WOOZLEY: We might add here too that that only applies to land within grazing districts. Not on public domain lands under section 15 leases. It doesn't apply for loss of grazing privileges under leases.

TUDOR: I might add on section 15 that's the opinion of this Department. It is not necessarily the opinion of those agencies of Departments of Defense which have to pay out the money.

BROWNFIELD: I was under the impression that Senator Anderson got a bill through to Congress some years ago so that defense agencies could pay for privileges.

KERR: That applies to grazing districts. Another piece of legislation which carries compensation that I think is rather unusual is the one in connection with the McCracken Mesa exchange. There the grazing permittees are not only compensated for their loss of improvements but for their loss of grazing privileges. I think that's the only one outside of military or national defense installations that carries compensation provisions. It wasn't to be accepted as a precedent.

CONTROL AND QUARANTINE PROGRAM FOR AREAS THREATENED WITH ALFOMBRILLA (DRYMARIA ARENARIOIDES) INVASION

(MYRVIN E. NOBLE)

Alfombrilla, a plant reported to be extremely toxic to cattle in north central Chihuahua, Mexico, has been found within three miles of the New Mexico border just west of Antelope Wells, New Mexico. Information concerning this plant is quite meager and is largely contained in Bulletin No. 28, published by the Mexico Department of Agriculture. A translation of this bulletin has recently been made available.

Apparently alfombrilla is the most important poisonous plant in Chihuahua affecting cattle, but it appears not to be harmful to horses. During a three-year period, estimated losses in Chihuahua were between 3,000 to 4,000 cattle on approximately 300,000 hectares (about 750,000 acres). These tremendous losses have caused great concern in that locality.

The plant, which is also called "carpet", is a member of the Pink family, Caryophyllaceae. It is a short-lived perennial producing an abundance of small seed which is readily germinated. As the common name would indicate, it has a low growing habit. The leaves, stems, and sepals contain epidermic glands which secrete a viscid substance making the plant sticky. The plant is reported to be green from mid-April to October.

The nature of toxic substances contained by the plant is not definitely known, but it is believed to be a sap and potassium oxylate. Animals poisoned by the plant die without signs of struggle, although they do display lesions of various kinds in different parts of the alimentary canal and other internal organs. Experimentally fed cattle have died within 12 to 36 hours without external symptoms after consuming from 100 to 700 grams (about 1/4 to 1-1/2 pounds) of plant material. This very small quantity indicates the exceptionally lethal nature of this plant.

Several means of controlling the plant have been tried. Mechanical methods such as hoeing, discing, and plowing have not proved satisfactory. Of several hormone herbicides tried, a 5 per cent solution of 2,4,5-T in water with a detergent has been most effective. Apparently total eradication has not been solved.

The most effective way to reduce losses from the plant has been to provide protection of the range from grazing for one growing season or more. In Chihuahua, certain heavily infested areas have been fenced off to prevent loss. These have displayed a rapid recovery of good range grasses of which remnants were present on the depleted range. Like other weeds, alfombrilla does not compete successfully with good range plants, nor is it consumed in lethal quantities when adequate forage is available. The abundance of this plant in Chihuahua during recent years is attributed to acute drouth and overgrazing.

A search has been made recently by Dr. Norris of New Mexico A&M College and Bureau of Land Management personnel for any infestations of the plant that may occur on the United States side of the border, but without success. The college intends to assign a student this summer to

trace the perimeter of the Mexican infestation that may be found in the United States.

We have received information from Dr. Louis C. Haemstra, Director, Animal Inspection and Quarantine Division of the Agricultural Research Service, USDA that his organization lacks authority to quarantine Mexican livestock for the purpose of preventing the spread of poisonous plants into the United States. Quarantine regulations provide for the curtailment of livestock movements across the border because of communicable or contagious diseases only. At present, the most serious of these diseases is the foot and mouth disease. The Quarantine Division of ARS, USDA in Washington, D. C. has received correspondence and literature from its agents working on the Mexican border concerning alfombrilla. They apparently have been aware of this plant for some time.

The Plant Pest Control Division of ARS has indicated that adequate legal authority rests with them to investigate any such harmful plants as alfombrilla in Mexico and perhaps to undertake control operations in that country. Any such activity would be dependent upon the future availability of adequate funds for this specific purpose. Dr. Donald R. Shepherd, Assistant Director, has advised that agents of the Division are presently situated in northern Mexico working on investigation and control of harmful insects, chiefly citrus fruit damaging insects that are threatening to spread to the United States. These persons could perhaps, after appropriate arrangements, be assigned to investigate alfombrilla. The Plant Pest Control Division, USDA apparently will need administrative authorization for such work resulting from some formal request for investigation by an interested individual, group, or agency. Also the problem must be deemed of sufficient importance to warrant ARS consideration.

The Bureau of Land Management is not authorized, nor are funds available, to undertake control work concerning plants outside of the United States. Before we could initiate such a program, legislative authority would have to be provided. Any work that might be initiated by a United States Government agency would necessarily have to be a cooperative effort with the Mexican Government which seems to be very interested in the control of alfombrilla.

DISCUSSION

NOBLE: Perhaps Mr. Brownfield would like to add something to my comments.

BROWNFIELD: It's a very serious problem. I'd like very much to see these boys go on record here as making a motion requesting the ARS, USDA to keep in touch with it. We've got to have a program to prevent it from coming into the United States.

STRINGHAM: I so move.

VAUGHT: I'll second it. Will the study being made by this college student this summer provide the necessary information and justification to initiate an eradication program or will additional studies have to be made?

NOBLE: The student will go in the area under the sponsorship of the Mexico A&M College. It will be a Mexico Agriculture Service Experiment Station project. The Plant Pest Control Division of the Agricultural Research Service will undoubtedly conduct their own investigation before going into any control program. They would cooperate with the Mexico officials as they are doing right now. I might also state that Dr. Haemstra of the Quarantine Division recently received a report from some of their agents on the border. They are aware of it and have received a copy of this Department of Agriculture bulletin from Mexico. The Plant Pest Control Division has done some investigating and have later plans for requesting funds for the project. One more item, they had some feeding trials in Mexico with this plant also. It gives us some insight of the lethal characteristics of it. They fed cattle anywhere from 100 to 700 grams and within 24 to 36 hours the cattle died. It's also stressed that where the range is in good condition they had no trouble. Where there is an adequate feed supply the plant is not palatable and will not be taken by livestock.

ARRIEN: What about sheep?

NOBLE: They don't mention sheep. Horses have not been affected. Apparently it is not fatal to horses.

ESPLIN: Is it a native of Mexico? Do you know where it originated?

NOBLE: Apparently it is a native of Mexico. It is a species of drymaria, it is in the Pink or chickweed family. There are some half dozen or so species of drymaria in the United States. One species which occurs in New Mexico and Arizona is known to be poisonous.

HORN: You say this plant is a sticky sort of plant - can they pick it up in their hides and carry it that way?

NOBLE: We don't know that much about it.

BROWNFIELD: No, we think the seed comes through in their droppings.

NOBLE: We don't know the extent to which it may be disseminated. Apparently it isn't picked up entirely by the animals. The only way I see that it is carried is on the hooves of the cattle. All the animals coming into this country cross a ditch coming across the border and that would kind of wash off most of the seed being carried.

WITHDRAWAL OF PUBLIC LANDS FOR WILDLIFE MANAGEMENT UNDER THE COORDINATION ACT (ROYALE K. PIERSON)

Mr. Chairman and gentlemen. The Coordination Act was passed in 1934, was amended in 1946 and again in 1958. Its purpose is to provide more effective integration of fish and wildlife conservation programs with Federal water resource developments, and other purposes. In other words, every time there is a reclamation proposal or Corps of Engineers proposal of some type, the Bureau of Sports Fisheries and Wildlife makes a study and renders a report on the effect of that installation on wildlife and fisheries.

Along with the main purpose of that act are various others, including authority to assist States in wildlife restoration programs which has been extended to include the authority to withdraw lands for wildlife restoration purposes. It also provides for making surveys and inspections of wildlife on the public domain, including acquired lands or water, and for the Secretary to accept donations of land and funds to further the purposes of the Act. Its main purpose is to prevent impoundment, diversion, or other manipulation of natural waters without a full study and consideration of the fish and wildlife resources which may be affected, and to provide measures for reducing these losses by replacement of destroyed habitat, or improvement of the remaining lands or waters.

As to the most recent amendment, passed in 1958, there was some concern that it might be made applicable to small water developments including stock watering ponds. The law affects the Bureau operations in this matter: The State offers a proposed plan for intensive management and administration of an area and the Fish and Wilflife Service, if it approves, will make the actual withdrawal application. Once the withdrawal is approved, jurisdiction passes from the Bureau to the Fish and Wildlife Service and the State. In the past, quite a number of small acreage withdrawals have been made in connection with private properties acquired by the States. These have not been very troublesome to the Bureau, although it would seem preferable in some cases for the Federal land to have been leased or sold directly to the States. However, the applications under this act which have aroused our principal concern are those for large acreages of Federal land in which little, if any, State ownership of intervening lands exists. Commonly the basis for these applications has been to protect the public's interest in recreational use of the land and the access routes leading to such areas. Our position has been that classification under section 7 of the Taylor Act will provide this same protection, at least on a temporary basis. This situation is quite fluid.

The Solicitor, by opinions of September 4, 1958 and September 19, 1958, has stated that the act clearly "authorizes grants of easement across public lands for access to fishing areas." The Solicitor's opinion, on access to fishing areas, arose in connection with a proposed withdrawal of lands along the Deschutes River in Oregon. The Solicitor also said that although the act does not use the word "withdraw", legislative history demonstrates that Congressmen intended that lands be withdrawn for this purpose. Referring to the access language in section 1 of the 1958

Coordination Act, the Solicitor listed the Pickett Act of 1910 and others as providing statutory authority for the President to make withdrawals for public purposes. There are now pending before the Bureau applications filed under the Coordination Act in excess of 300,000 acres and a new application just recently filed in California includes more than 200,000 additional acres. And since most of the lands involved in present withdrawal applications are in California, it is difficult to guess how large an acreage might eventually be subject to withdrawal for these purposes in all States.

DISCUSSION

HOCHMUTH: There are about 1,050,000 acres proposed to be withdrawn in the State of California. I imagine we have perhaps a million acres proposed now on this so-called Coordination Act withdrawal. None of those withdrawals have been made the past two years because they are still in the policy stage. There are questions of the multiple-use concept. Really the purpose is the disposal of the land under the public land laws.

BROWNFIELD: Would that be excluding multiple-use?

HOCHMUTH: Actually the most of them don't wish to exclude multiple-use.

BROWNFIELD: Is the administration out of BLM hands?

HOCHMUTH: For all intents and purposes that possibly could be true, but we have these other things we're working on because the Bureau feels that the multiple-use concept is a primary matter, and we should make arrangements for maintaining hunter access and public shooting areas, and so on. That could very well be done by cooperative agreement.

BROWNFIELD: Couldn't they just handle that under section 9 of the act?

HOCHMUTH: Many States could. Some of these are section 15 lands, but there is a substantial area, I think about 300,000 acres in Colorado, which could very well be covered by the Taylor Grazing Act. Those lands are partly withdrawn anyway. In any event, I think we should look at it very carefully in order to get cooperation. In States like Nevada and Idaho for instance, there's not much activity for withdrawals under the so-called Coordination Act because the advisory boards, our State people, and our Fish and Game Commissions are working out cooperative agreements inside the structure of the Taylor Grazing Act.

_____: In districts in my area, the cattlemen's association and the fish and game people got together to protect this land. Now it isn't like a wilderness withdrawal but there are a certain amount of deer and other wildlife, and there is quite a hunting area for the people of Los Angeles and our area too. So the opinion is that they can protect this and not let it be picked up for private uses.

BROWNFIELD: In other words, it is to head off desert land entries and five acre tract applications, or things of that sort?

HOCHMUTH: That is primarily it. The land is very rough and doesn't lend itself to cabin sites. There are many land speculators who will file on anything they think is open.

PARTICIPATION BY THE STATE FISH AND GAME DEPARTMENT IN RANGE IMPROVEMENT PROJECTS ON THE FEDERAL RANGE
(ROYALE K. PIERSON)

You remember last year we proposed in Nevada a cooperative agreement with the State Game and Fish Department providing for joint financing of range reseeding projects and other types of range improvements. It was your wish that we refer that part of the agreement to the grazing districts, which we did. Also, the Director of Fish and Game for Nevada sent the same agreement around to the other States. During the last year, the agreement underwent several reviews. A copy of it is in your workbook. This topic will make reference to that cooperative agreement, as well as other matters.

From time to time during the past 20 years of Federal range administration by the Bureau, our field offices have entered into cooperative agreements with the State Game Departments to accomplish some objective relating to range or wildlife management as authorized by section 9 of the Taylor Grazing Act. Often such agreements were more or less temporary in nature and may have been only for the purpose of developing a single range improvement project. The Bureau has consistently supported such programs, whether large or small, for a number of reasons. Primarily, though, it seems logical that since game animals inhabit and make use of the forage on Federal range areas, the State, as custodian of wildlife, should contribute to developments which will benefit it. To their credit, the State Game Departments have generally been very prompt in offering their full cooperation in project construction and similar activities. The Director's policy memorandum of September 1955 encouraged such cooperation as a desirable means of improving the range and conditions for wildlife in grazing districts. I might add here from time to time we've encouraged the States at informal meetings with them to use their IR money for range improvements rather than buying up the land and extinquishing privileges and in general making holes in the range.

In recent years, the Bureau's revegetation work has attracted both critical and commendatory comments from the different States. Mostly the reaction has been favorable. This is because of the fact that even if little actual use is made of a reseeded area itself by wildlife (and such use is usually much greater than realized), the additional grazing capacity which results will relieve livestock pressure on adjoining areas which will automatically leave better forage and habitat conditions for wildlife.

However, it remained for Nevada to take the initial steps toward formalizing this activity by a general agreement which may be used for all types of cooperative range improvement and development work. After reference to field offices for suggestions, this agreement form has been adopted as a pattern for Bureau-State agreements in all field offices. In the interest of saving time I will not read through the provisions of the accepted agreement unless someone has a question about it. But we would like to reemphasize our belief that much good can come from the States taking part in the planning, development and maintenance of range improvements which are beneficial to wildlife as well as to livestock. Cooperation on this phase of operations will often provide a common ground from which other

aspects of wildlife management may progress in a more harmonious manner because of generally better understanding among the participating groups.

DISCUSSION

SWALLOW: I don't think this has been reviewed to any extent by livestock people in Nevada, however, I do feel that if we had a plan such as the game and livestock people in the State of Wyoming have, that we probably could make it work very well.

HORN: I'd like to ask a question in regard to the Recreation and Public Purposes Act. Our Board was very anxious to hear it discussed in connection with the Coordination Act.

MEAD: They are not associated by legislation at all. The Recreation and Public Purposes Act of 1928, amended in 1954, provides that any public organization, semi-public, States, counties or groups of individuals organized together can buy, purchase or lease public domain land, provided they have a plan of operation and show how they intend to use the land The Director discussed some phases of it early this morning.

MCKNIGHT: This is a resolution from the Monticello Grazing District, No. 6 of Utah, requesting "that the Utah State Advisory Board representatives of the National Advisory Board Council do all in their power to help us obtain an immediate and final determination to the constant trespass that occurs in the southern part of this district by the Indians of the Navajo Tribe. We would like the Council to support and promote proposed lines of the extension on McCrackin Mesa as proposed to the Bureau of Land Management. We request that the Navajo Tribe be required to fence the proposed exchange and to move trespassing Navajos within the boundaries of the exchange or back on the existing reservation. We further submit that local BLM officials have not had sufficient backing on these trespass problems. Respectfully submitted, Kenneth Summers, Clyde Neilson, Clarence Perkins, Reed Bailus and Melvin K. Dalton." I move its adoption. (See Appendix E)

BROWNFIELD: Is there a second?

KERR: We're fully aware of the problem that confronts the livestock people and the district manager of Monticello, as the result of the constant trespass of Indian livestock across the San Juan River into grazing districts. Some years ago, some of you may recall, we cited the tribe into Federal Court and requested an injunction against future trespass. The decision of the Federal Court judge without hearing the case, only taking the statement of the attorney for the Indians, and a little testimony from the Indians, determined that we had no case and it was dismissed. The judge has never heard that case. As long as we have that case pending there is not much we can do in taking care of the trespasses that are going on now. There aren't many in the manner of numbers of livestock, just enough to be annoying. They don't have big herds. They may have three or four hundred sheep, a few head of cows and a couple of horses. We are in hopes that with the completion of this exchange on McCrackin Mesa which was authorized by law, adopted in the last Congress, and which provides for the exchange to the Navajos of about 53,000 acres in the McCrackin Mesa area which is in District No. 6, Utah, for the 53,000 acres in, or substantially that in Arizona that is being used by the Bureau of Reclamation, will end Navajo intervention into Utah. Henceforth, they would be limited to the land that has been granted to them which will include all the land south of San Juan plus the Aneth Extension, plus the McCrackin Mesa extension. A similar provision was in the act which authorized the Aneth Extension, but that didn't stop the Navajos from pushing over into the area outside of the reservation.

BROWNFIELD: We'll accept the resolution as read and we'll have it made a point of record.

HUGHES: This is a resolution adopted at the 1958 convention at Eugene, Oregon, the Oregon Division of the Izaak Walton League of America. I assume that all the members here have read it. "Whereas much of the land under the administration of the Bureau of Land Management is in pitiful condition and further deteriorating rapidly from misuses of grazing privileges, resulting in soil erosion, water wasting and depletion of vegetation, seriously affecting not only the commercial production of the land but also seriously

depleting recreational and wildlife advantages on the land." I can only speak personally for the southwestern area of Colorado. That statement is as far from the truth as any statement could be, of the area I know personally. If you want to tie it down to particular spots, many of the men here in the Bureau of Land Management remember the desert between Grand Junction and Delta. In my opinion that is 100% better in growth and carrying capacity than when the Bureau took it over. Advances have been made in checking erosion, further advances have been made in grazing to where the growth is so much better that the old growth doesn't compare with it, reseeding has been done. The game population has increased to where the problem has come to that of control. West from Horse Blind Mountain down to the desert just west of Grand Junction, possibly 15 to 20 miles in average width, they opened a special deer season. These numbers I'm merely quoting from memory of what I read in papers from the Colorado Fish and Game Commission. In that short season, there was a total take of 17,000 deer. They figure that meant 25,000 killed. The game people figure that could not be more than 1/4 of the total deer population, giving you 100,000 deer population in that one area. I grew up in the area, and I well remember when it took an awful good hunter to go out in the fall and get a deer. I don't know the reason for that increase, but I'll go along with the Game Representatives from Arizona. It's probably largely due to more water being made available. Next it is probably due in part to the destruction of predatory animals. Whatever may be the cause, I don't think anyone who gives consideration at all to the question would disagree in a statement of the last 20 or 30 years that there has been a tremendous increase in wildlife whose winter habitation is mainly on public domain, at least in our area. Now for an organization to come out with a statement of this nature, assuming that in general the situation is the same as it is in western Colorado, it shows that they are not making the least effort to get at the true facts.

Any individual or group who can't take constructive criticism is in a bad way, but there is a lot of difference between constructive criticism and the statement that the lands administered by the Bureau of Land Management are in critical condition and further deteriorating. As a member of a local State board and a member of this National Board and in a sense a member of the Bureau of Land Management, I resent statements of that kind. Possibly we are not moving as far in public relations as we should. Possibly we should do a little bit more on the public relations angle. Most certainly we don't have to hide our heads in shame on the condition of the public domain now as compared to what it was 30 years ago in the areas I know. And we should not take statements of this character lying down. They should be told that the statement is not true. If they can verify it, we want to know where this situation exists. I'm not questioning there may be a few isolated areas, too close to where you have a lot of livestock moving in and out, that is in bad condition. Areas where we still have trail herds moving without restriction can go a long way toward improvement. I'm talking about 80 or 90% of the land, not just 10% that is used by trail herds. They say that we're seriously handicapped by lack of sufficient funds. At least in my own area the Government has been very liberal. They say that our organization has insufficient personnel, but we get the job done and we have plenty of personnel out on

the areas involved. So they recommend that the grazing fees are too low and should be revised upward. I doubt very much if anyone writing or concurring in this resolution has any idea on the fair amount of grazing fees or whether our grazing fees are or are not fair, considering the benefits we receive and the work that the user is doing to make this land work and build up under controlled grazing.

They want 50% of the membership on local boards and all other boards to come from the Fish and Wildlife Service, the State Fish and Game Commission, the Water Resource organization, and possibly the Soil Conservation Service. The Soil Conservation personnel from the Engineering Department could be of material benefit. If they want to have another setup which is prominently called the planning committee of the Commission, and we wanted to elect somebody to go on that planning commission in different areas, have a member of Wildlife Service, State Game Commission, Water Resource organization, and the Soil Conservation Service organization on this planning committee; that is fair enough. We are serving a useful purpose in trying to get these permits fairly issued and in trying to get help in supervision of the land so it won't remain in this "deteriorating" condition. I think that is a job for a group who are directly interested and who are willing to devote their time and attention to those matters when the committees and local boards meet. I seriously doubt if we are going to better ourselves by giving up 50% of membership on the board to outside interests.

Then they resolve that the Oregon Division of the Izaak Walton League of America, in convention, institute and promote a program as above outlined, to correct the weaknesses, of administration of public land by the Bureau of Land Management, and so forth. Personally I think we should acknowledge receipt of that, tell them that their premises are false, that we're doing the best we can, that we have all the confidence possible in our Director, that he is doing a good and excellent job and the rest of us are trying to work under him to get that job accomplished; thank them for their efforts to get us more appropriations, but tell them to look into the facts before they make further statements concerning the condition of the public domain under the administration of the Bureau of Land Management.

PIERSON: Mr. Chairman, we're informed of this resolution through a clipping in the Portland Oregonian. I called Joe Penfold, the Executive Director here in town and he brought a copy of the resolution over. I got out our annual condition and trend reports for Oregon and showed him that 76% of the 13,000,000 acres of range in Oregon was in fair or better condition, and that about 80% is either stabilized or improved, and pointed out that such a completely erroneous statement doesn't reflect the current organization. Speaking of multiple-use agencies, this Bureau has the largest multiple-use authority of any agency in Government. Mr. Penfold said this resolution would go nowhere and if it was reintroduced at the National meeting in April, they'd bring it right down here or head if off at the meeting itself.

GERBER: Inasmuch as I'm from Oregon, I think I should say a word or two about this. It has been the policy of the grazing districts in Oregon up to this time to work in direct harmony with the Oregon Game Commission. They have trained biologists in the field to study habitat and they also

have field men studying the range. They present to our district, as we get ready to issue term permits, the number of animal units they figure their game will consume and that exact amount has been set aside. We have not asked any of these people from the Izaak Walton League to contribute any information because they do not have any men in the field that are competent, in our estimation. For that particular reason I feel that this is a vicious attack on us because it is one made by people who are not competent.

STRINGHAM: Do you have any figures as to how much we people here put out on public domain ourselves to improve it so that wildlife habitat will be improved?

PIERSON: About 2 million dollars this last fiscal year.

WOOZLEY: I'd like to point out what is being done in some places. Ralph Faulkner comes from a district that got a two page spread as I recall about a year ago in the Salt Lake Tribune. It explained what the reductions amounted to, the range improvements that were being made and the amount of money that was being spent. I think our district managers have the information. We're trying to get them interested in getting the local picture out. In Rock Springs about two years ago they had a big spread with pictures of the practices that you are using for seeding and how you can increase the grazing capacity of the range. There's a lot of it going on but unfortunately we don't have the extensive public relations system of other agencies.

BROWNFIELD: Everything was new when we started and the Board did not want to impose on any man that had livestock out on the range. They didn't want to impose hardship by cutting immediately down to the grazing capacity and force cattle on the market, clear the surplus and reduce the price. They gave them all the leeway they could. They just rounded up in the area and asked everybody how much stock they run, and ever had run, in the priority period between 1929 and 1934 and gave them a license. In many instances, in many States, they did not have half that many cattle and if they did have they said nothing about it. They took all they could get and half of those licenses were nonuse. The district manager and the board made a mistake in rating the range and overrated it. Now it has to be corrected. Someone has to suffer. Some sufferers are getting their nonuse cut down and some have to get the number they actually use cut down. It has to be done where your range is going down. The only way to do it is for everybody to get around the table and take their cuts. Let the information go out at home in the newspapers. I think we've got to advertise that fact.

WHY FEDERAL WATER RIGHT LEGISLATION IS NEEDED
(CHARLES C. BUTLER)
(AMERICAN FARM BUREAU FEDERATION)

Gentlemen, I'd like to call your attention to some of the things going on in this country in the field of water rights.

Water is one of the necessities of life and the right to use it is a property right which is just as important in our private enterprise system, and in some cases even more important, than a property right in land.

Recent Supreme Court decisions and Justice Department assertions have advanced the Federal Supremacy Theory in water. With the implementation of this doctrine no right to the use of water in the United States is safe from Federal pre-emption.

For over 100 years the citizens of our country, living in states where a definite system of water right law has developed, have thought that the state as trustee for all the people, holds title to water in the streams. All during this period individuals have expected that water rights would be a matter of state law and that an individual water right obtained under state law would be as good as gold. On the basis of this assumption the states have granted rights to private users who have invested millions of dollars in economic production. Many of these investments are now threatened.

The original concept of state administration of water rights was built upon judicial decisions of state and Federal courts before any Federal laws were passed relating to the administration of water rights. The fundamental principles of many of these decisions are still recognized as basic water law.

Congress passed the first Federal legislation ratifying the principle of state administration of water rights in 1866. This position was reaffirmed by the Congress in 1870 and in 1877 Congress passed the Desert Land Act which again definitely reaffirmed the rights of the western states to legislate on all matters concerning nonnavigable waters within their borders.

From these citations it can definitely be seen that by 1878 - a new body of water law had been recognized by the Congress and the Supreme Court and reserved for state administration. Since 1866 there have been at least 17 congressional acts and an equal number of Supreme Court decisions to support state administration and control of water rights.

For years little thought or question was given to the states' authority in water rights. Then came the 1930's and 1940's with the tremendous increase in powers of the Federal Government. Those who were ready, willing and anxious to increase the powers of the Federal Government looked to the nation's water resources with an envious eye - here was a fertile field in which to assert more Federal control.

The federalizers intensified their activities toward Federal

control of water resources after the Supreme Court in the Twin City Power Case said that the Federal government holds a "dominant servitude" on waters of navigable streams - and that if the Federal government chooses, private rights initiated under state law for use of such water can be wiped out without payment of compensation. They well realized that in this area lie the restrictions on state control of water because of the powers which the Constitution had conferred on Congress to regulate commerce and control navigable waters.

Other Supreme Court decisions which helped implement the Federal Supremacy Theory in water include the Appalachian Power Case in Virginia, the Ashwander Case concerning the TVA, and the First Iowa case. In the former Case the Supreme Court simply adopted a new definition of a navigable stream - a definition which extended Federal control to any stream which might, by reasonable improvements, be made navigable - even though such improvements were never actually completed or even authorized. Under this definition it is literally possible for a mountain torrent to be classed as a navigable stream.

The net effect of these Court decisions is that Federal control has not only been extended to the top of all watersheds but also to the entire watershed which includes every farm in the nation.

By extending Federal control of water to the entire watershed, the federalizers calculated to destroy the authority of states to claim title to waters in all streams. Having accomplished this they were still not satisfied until they upset the Acts of 1866, 1870, and 1877 and supporting Supreme Court decisions which took nonnavigable waters of the western states out of Federal control. By 1955 they had found a way to upset those former Acts and decisions. It was accomplished in the Pelton Dam Case where the Supreme Court simply referred to most public lands as "reserved lands." By this decision it was held that the Acts of Congress and decisions of the Supreme Court under which western water law was established had no application to "reserved lands."

A high percentage of the public land in the western states is in some type of a reservation. Approximately 90 per cent of the irrigation water used in the West originates on reserved lands of the Federal Government. This distinction between types of land provided an extremely clever means of upsetting past congressional Acts and Supreme Court decisions relative to state control and administration of water.

The doctrine of Federal Supremacy in water, as now expressed by the Supreme Court and supported by the Justice Department, is exceptionally dangerous because it has the elements of authoritarianism as the supreme law of the land. Under this doctrine no right to the use of water in the United States is safe from Federal pre-emption.

The Justice Department is now taking every possible advantage to enforce the Federal Supremacy theory. Several cases have been or are now in the lower Federal courts where the Justice Department contends that the Federal Government does not have to comply with state water laws

or pay compensation for water pre-empted. For example, in August 1958 the Justice Department asserted and a U. S. District Judge ruled that the Federal government did not have to comply with the water laws of the State of Nevada relative to the use of ground water on reserved lands.

This dangerous doctrine of Federal control of water resources can be put to an end through Federal legislation. There are few, if any, congressional Acts which definitely support the Federal Supremacy Theory in water. Actions in support of this doctrine are based on decisions of the Supreme Court and other lower Federal courts and Justice Department interpretations. Congress has the authority and the only authority to enact legislation that will rout this dangerous doctrine.

The Federal Supremacy Theory in water is all a part of a pattern to destroy individual freedoms and rights and state control and substitute in lieu thereof an all-powerful centralized government. It all started in the 1930's and 1940's when the Socialist-Communist centralization philosophy began to seriously influence our Federal government. We can have authoritarian laws and control in this country just as much as in Russia or Red China unless we assume our responsibilities to see that authoritative processes are used instead.

We can assume our responsibilities in this important field by supporting enactment of the legislative proposal which definitely establishes the position of state governments in the control of water resources and the administration of water rights within their borders.

The bill that we have written does not apply just to the 17 Western States. It applies to all States. We feel that water shortages are developing so fast in all the States that whatever legislation we pass in this regard must apply to all States. We expect the bill we have prepared will be introduced not later than the first of next week. We hope you folks will get hold of this bill and help us to support this type of legislation before the Congress.

DISCUSSION

BROWNFIELD: We'll all see that there are resolutions supporting it, I guarantee you.

SWALLOW: While Mr. Williams and Mr. Romeo of the National Soil Conservation Service are still present I'd like to introduce a resolution and ask for comments from these gentlemen if we have the time. This resolution was passed by the National Soil Conservation Districts and at the present time legislation is being requested.

"Whereas, the National Association of Soil Conservations Districts hold that public lands are held in trust and must be devoted to the highest possible use for the permit of all the people, recognizing sustained yield and multiple use of renewable national resources as basic principles of public land use and management and,

"Whereas, in order to achieve the above objectives there is a need to provide a greater incentive to range users to invest in range conservation and development on federally owned rangelands by appreciated instead of depreciating investments made in connection with the installations, maintenance of conservation and development works and,

"Whereas, under present regulations, Federal lands can be withdrawn from range use without adequate compensation to range users for their investments and improvements in range conservation and development facilities,

"Therefore, be it resolved that when federally owned rangelands are withdrawn from range use or disposed of for any reason or the permittee's license permanently cancelled, that range users be compensated for their investments or range conservation and development of these lands, for the amount of their fair market appraisal value plus interest at 5% per annum of the original capital investment for the period which the improvements have been installed up to a maximum of 20 years, provided the improvements have been adequately maintained by the users."

At this time I'd like to request that Mr. Romeo give a few instant comments on this resolution. I'd like to move its adoption. (See Appendix G)

ETCHART: Second the motion.

ROMEO: I think we should go into the purpose behind this resolution. It has been our thinking that because of the demand that is being put on the range users through fencing or participation in seedings and development of water, we should have some protection in return for the investments. We feel it's more or less like borrowing money from a bank. I think the lending agencies would feel much more secure if we had something of this kind. They certainly feel that it would give them some incentive to lend to those people doing the work. When you go out and improve on these Federal ranges you don't expect to get tenure because they can't give away the people's land, but we do feel that if they are going to use our monies to make these improvements, it is only fair that we should be compensated for those investments by interest. Many of us going out on the Federal range have to borrow money to do improvement work. When we do these things, the lending agencies from which we borrow money are charging interest. We don't think it is wrong that when these lands are withdrawn that they should pay interest on the original investment. If $5,000 was spent on a well, I think that well should draw a 5% interest for a period of 20 years. We use the lifespan for 20 years because it's been set up by Government regulations and some of the other agencies are using that lifespan. When the land is withdrawn we think the man should be entitled to fair market value, whatever that may be. If the man has kept the improvements up, it brings him more revenue. If he lets them go down, of course, that's his problem. By doing these things, we certainly think it would entice people to develop the conservation work more freely; at least they would feel they had a little more security in getting the job done. We don't think we're asking too much. I don't think any of you people would loan money without some assurance of getting it back, plus interest on your investment. We

certainly wouldn't buy Government bonds unless they paid us interest and they mature in ten years. We feel this thing should mature in 20 years.

FAULKNER: Where would these monies come from to compensate me for range improvements I have put on land in cooperation with the Government, and which are later selected in a desert land application?

ROMEO: That would probably come from the person who is taking up that desert land entry. Whenever you're taking up a desert land entry, of course, you are withdrawing land from public use. If the Government agencies withdraw the land, then, of course, they are the ones responsible. If the license or permit is cancelled for cause, and you have these investments in improvements, possibly the BLM would be responsible. By the same token if one license is cancelled and someone else takes it up, they in turn pay for the improvements. Now there will be no money spent unless these lands are withdrawn, whether it be through a Government agency or desert land entry. I know in the Western States we are having a lot of this desert land entry movement, and we think it is quite important.

BROWNFIELD: How do you reckon with the term of depreciation?

ROMEO: I don't think you should list those properties and depreciate them because you are demanded to keep those properties in working order. You have to maintain your fences, you have to take care of your seeded areas to keep them from becoming depleted, you have to maintain your wells so you'll have water. They are not depreciating; they are being continued. You are still investing your money every time you repair those installations. I discussed this thing with Mr. Woozley. I don't think you find too much objection to it, do you?

WOOZLEY: Not if the other agencies have appropriations to pay the money for these compensations.

VAUGHT: I can understand this gentlemen's interest in this thing, but personally I think for a group of this kind to pass a resolution of that type, we are skating on thin ice. We are targets at the present time as being land barons, monopolizing the Federal lands, getting our range rights for nothing, and things of that kind. This is just another target for somebody to take a shot at. I have constructed some 50 or 60 reservoirs and stock water ponds. It cost me quite a little money; and the Government has contributed to it as far as that part is concerned, but I feel that the next time I go out and gather my cattle off that area, I'm being paid for what I've done out there due to better distribution and more weight on my cattle. I don't think anyone owes me anything.

ROMEO: As far as being paid, Mr. Vaught, we do these things for that purpose. But by the same token, don't you feel that you have or should have assurance that when the land is withdrawn and you can no longer use it that you should get your money back or interest on your investment?

VAUGHT: I think that when the land examiner classifies that land as to whether it should go into private ownership in any form he takes those things into consideration.

ROMEO: The point I was getting across to you, if it is in a reseeded area, it is going to lend tenure to the Bureau's wealth, when these things have to be purchased, otherwise the Bureau has no claim because it goes to a higher use. If it is better for higher use, whoever takes this land certainly shouldn't mind paying for it. Where it costs us eight dollars and some cents an acre to reseed and a man can come in and take a homestead in the middle of a reseeding, that is cheap homesteading. I'd give $10 an acre for it any time. And yet what do we have to stop it? I've invested my money on a long range plan that some day I'm going to reap some benefits from. The Bureau has done it on a long range plan, and a man comes in and homesteads 320 acres, don't you think he's entitled to pay more than what we have spent? He is going to reap the benefits of our hard work in addition to our money.

VAUGHT: I think we are getting on thin ice on this thing, and I have said all I can say on it.

SWALLOW: I think you ought to remember that the Soil Conservation Districts which are composed of many many people, are one of the strongest groups in the United States, who are all private land owners, and do not have a personal interest in this matter. They feel that this is a proper way to reimburse the livestock operators who are operating on the public domain. They are doing it from a standpoint of unselfish interest in order to stabilize the overall livestock industry, and I don't believe the approach that has been taken will set us up as targets. We people are not initiating this. We are just agreeing to what the association of Soil Conservation Districts have initiated.

BROWNFIELD: Those in favor of this resolution signify by saying Aye, those opposed, no. The ayes have it - so ordered.

We will recess until 9:00 in the morning.

Friday, February 27

Chairman A.D. Brownfield, presiding

WOOZLEY: It will be a real pleasure this morning to be able to introduce to you the Assistant Secretary of the Interior. He comes from the West, has a lot of land, livestock and wildlife experience. We think a lot of him. We work very closely with him and we're very glad to have him here, Roger Ernst.

ERNST: You look like you are working very hard so I'll get out of the way and let you get something constructive done.

The fellow who just came in is Tom Flynn who is my Special Staff Assistant. When we make decisions that affect BLM or any of the rest of the areas under my responsibility which includes National Parks and Territories, and Bureau of Indian Affairs, Tom is always in on it.

One thing I'd like to touch on is how we appreciate your hard work and sacrifice, and the value of the National Council to us. I'm proposing to the Secretary that he request the formulation of an Advisory Committee on Indian Affairs, for example. We find that when we have an Advisory Committee to work with, a group of people who are willing to sacrifice their time and devote their efforts to assisting us in Government, that we do much better work. My personal observation is that the majority of the people in Government live in a little different world than you fellows who have to figure where the next hour is coming from in every day's operations because, unfortunately, today in Government the bulk of our people have never been out in the stream of private life and enterprise to know how you have to figure one day to the next, one week to the next, to be in business the following week. That is one thing which I think is most important to us in Government; to have a day-to-day awareness and realization of the difficulties of the people who are paying the taxes. That is why I heartily endorse and encourage the work of advisory committees.

The Advisory Board system has been practiced in this agency for a long time as we all know. But we have other areas of Government which are completely aside from the man on the street or the private enterpriser or the private wage earner where Government does not avail itself of the advice of the outsiders so to speak, or the taxpayer, the fellow who is really affected, and they go on having policies and procedures which brings about a breach as far as I'm concerned between those in Government and those out of Government.

I get a little bit critical and talk too much sometimes saying a lot of the decisions made that affect the Westerner are made by fellows that have never seen the West or realized that there is quite a difference between East and West. I think it is our responsibility in the Government to obtain the service of laymen, businessmen, and people outside of Government to help us as we go along so we don't widen the breach between the taxpayer and the Government people. I want to thank you very much and want you to know that we appreciate your time and effort in coming in here as

well as what you do for us all the rest of the year.

One thing that is coming up in my home State of Arizona is oil and gas leasing which I think is quite a disruptive activity insofar as our grazing lands are concerned. Oil and gas lease applications are filed indiscriminantly with no intention of investigating the possibilities of oil and gas. They file on large blocks, regardless of their characteristics and break them up into lots as small as one acre in some cases. Although they can't run an assignment through, they break these large blocks into small lots and immediately sell them, 10 acres for $10, all over the world. While it doesn't upset the operation of surface use, it is a continual threat to our administering work and our processing and it could be a threat to the surface use in time.

Arizona has two or three operators doing that, and we're asking for legislation to correct it. Just to show how it works, we're just starting a terrific flood of letters that will cost the Government umpteen thousand dollars to answer as we go along. Desert Land entries work the same way. Aside from your activities as an Advisory group, but more or less as citizens of your State, I think it would be wise to have some idea as to what is going on. We have had cases where these peddlers have picked up as high as 28 to 30 thousand dollars from individuals on desert land entries just for filing an application. California is trying to introduce legislation to correct some of this activity which is working to the detriment of not only the present user but certainly to the one who loses his money.

BROWNFIELD: If you'll be good enough to remain with us, we have some resolutions on the agenda, and we would appreciate your comments. This one came in from the Arizona Advisory Board concerning the San Carlos Indian agency land application.

ERNST: The San Carlos matter is typical of what we are seeing today in Indian affairs and can expect to see in the future. I ran into some interesting philosophy last night in talking to a gentleman who is well acquainted with Indian affairs. The Indian Reorganization Act of 1934 told the Indians they could set up their own self government. Some 20 years later there is a trend in this direction with the result that Indian Reservations are developing into Indian Nations, separate and apart from us. The Supreme Court ruled just the other day in an Arizona case that the State courts had no authority on Indian Reservations. In turn the State Attorney General ruled that under the Supreme Court ruling Indians are no longer citizens of the States.

The San Carlos Strip is an area of several thousand acres which was ceded to the Government by the Indians in the late 1800s, for a certain type of development. Just recently, although it has been done before, the tribe has decided they want this land back. The lands have been under the administration of BLM and treated as public domain. There are 26 ranchers dependent on the area; there are several mining claims, and the area has wildlife and recreational values. If the Indians were allowed to take it back, you can imagine what would happen. The Indians want to

be paid for that land if they can't have it. The cattle growers are coming back and saying that we'll go along on this business of paying the Indian for this land and keep it in the public domain. On the other hand, the attorneys for the Indians say they have an undeniable right to that land. We are studying it and if we come up with something we will advise everyone interested to see where we go from there. This particular case is not so important as the fact that it indicates a trend.

Last year up in Riverton, Wyoming, on the reclamation project up there, the Indians sold these lands to the Federal Government and the deed said mineral rights were deeded with the land. As you know they had a lot of gas development in the area. The tribe came in last year and said they made a mistake, they didn't mean to sell us the mineral rights, although it was there in so many words. They went to Congress and Congress passed a bill and gave them back their mineral rights.

We have a trend among the Indian people now, to get hold of land. In Arizona the Navajo tribe with 80 million dollars in the bank is actively buying up ranch units one right after the other. They have a very ambitious program. I think this is a trend that is going to increase. I have no recommendation other than I think it is going to be the business of all of us to study it and see what is right, equitable and fair and how such will fit into the economy of the West. I can't say the economy of the new separate groups, because we shouldn't try to separate the Indians from the non-Indians.

BROWNFIELD: Will our adopting a resolution be of any benefit to you?

ERNST: Well, we'll certainly appreciate the expression of it. I think we're going to find ourselves in a position here where it's pretty much under law and past acts that have taken place.

LEE: Mr. Secretary, you made a statement that under the present ruling the State has no authority on the Indian lands. We have a problem under this wool incentive plan with the Navajos in New Mexico. They go to a trader and sell their wool for 30 cents and then they put in for incentive payments. They go back the next day and buy the wool back from the trader at 35 cents, so the trader makes 5 cents on the deal, they go down to the next trader and sell the wool again to him for 40 cents and put in for the incentive payments. Some of them are doing that to four or five different traders. That'll give them about four or five different incentive payments. We took it up with the Department of Agriculture under whom the law is being administered, because we don't want to break the law down. They went before John Paul Jones, the Chief of the Navajos, and asked them to take it up with the Tribal Council and police themselves. I think from what you say now, we really can't police under State law.

ERNST: I think we find ourselves in that position under this ruling.

WOOZLEY: While you are here we'd like to tell you about the Church Rock-Two Wells deal in New Mexico. It is sort of a legalized exchange as I understand it and I think Jerry has some additional information.

KERR: There is a difficult land pattern in northwestern New Mexico, due to lands that were purchased by the Government under the triple A for the Indians. There is one block of land owned by the Navajos just east of the present Navajo boundary surrounded entirely by public lands. Then on one of the Forests there is some Indian land. West of Gallup there is an extensive area of public land, but it is in rather small tracts scattered through private holdings, and the Indians are principal owners of the private lands. The present status of land makes it almost impossible for us to administer the public land in this scattered tract area. A plan was worked out between the Indians, the Forest Service and BLM some years ago which would clear up the status of this Indian land. Some Indian lands would be transferred to the BLM and some of the Indian land on the national forest would be transferred to Agriculture and then the public land and forest land that are intermingled with Indian holdings would be transferred to the Navajos. The plan that was worked out and agreed to appeared to have excellent possibilities, but it had to be authorized by Congress because of the Indian land involved.

LEE: Our livestock people in New Mexico have opposed that bill, and will oppose it when it comes before Congress on this theory; that we do not believe the Navajos should be built up as a nation inside our State of New Mexico. Now the Navajo tribe purchased the Ed Sievant ranch about a week before he died. It was a very large tax paying ranch and a very worthwhile ranch in northern New Mexico. We don't think that it is good for the Navajo people to be segregated and put off to themselves. We believe that the white ranchers should mix with them, and should iron out their difficulties and should learn to live together and the Government should learn how to administer even though it is a complicated problem when you have two races. Our Indian people were made soldiers in this last war, the first time in history the Indians have been drafted. They've come home, and they are in a state of transition now. Instead of letting the Indian become a member and learn how to graze and how to meet these problems by these exchanges we are just blocking them in and sealing them away from our State and national Government. It isn't that we don't recognize there is a problem, but we believe that it should not be solved by shutting them off on a reservation or anywhere away from us.

STRINGHAM: The Navajos have their own legislative body, do they not?

LEE: They have a strong tribal council. Not only that, they have their own courts, they have their own laws and their own police force, but our feeling is that we shouldn't seal away from the rest of the people. After all, they are here, we're supporting their schools, we're educating them, we're trying our best to make them citizens. In spite of the Attorney General's ruling that they are not citizens we feel that they should be. We felt that the grazing department made a mistake when they cut District 7 off and put the board under the Navajos. We felt that it was better to have a board made up of American people, and let it work together to govern that district.

ERNST: I'm very happy to hear your views on that because aside from Church Rock - Two Wells I think the very same thing, and I think it's more evident

in the Navojos than any place else among the many many Indian tribes. We are seeing this trend toward Indianization, where we're getting a nation within a nation. It's going to be a very difficult problem because if it continues as it is, and particularly where some tribes that are a little bit more business like and use their resources to accumulate more money, we are going to see another series of Indian wars which are going to be economic wars, rather than of violence such as we have had in the past. We have every chance in the world of seeing that in Arizona, New Mexico, and Utah in the Navajos where it is going to affect the economy of a given area by having two different sets of people which we should not have, to work to the advantage of all concerned. I appreciate your views.

HEATON: Mr. Brownfield says he feels it is about the right time to present this resolution on the San Carlos Apache Indian Guard Reservation and the Safford Board and the State of Arizona Advisory Board have resolutions on the subject, the contents of which are the same. I think they have been pretty well discussed here before the Secretary. I would like to mention that there was 232 thousand acres that were ceded back to the Government since that time, approximately 32 thousand acres of this ground has been patented by stockmen in the area, and that there will be 26 families affected if this is taken away from them. I don't think it is necessary to read the resolution. I move this resolution be passed by this board (See Appendix H).

KNAGGE: Second the motion.

BROWNFIELD: Any discussion? If there is no discussion, we'll take a vote. Motion is carried.

HORNE: A resolution that I rather think would be good from the Council is a memorial to the Congress concerning this water situation that we discussed yesterday in regard to State rights. I should mention that 32 other States have concurred in the same resolution.

"Whereas, a recent decision of the Federal Courts and a recent ruling of the United States Department of Justice have deprived the States and persons of rights which said States and persons have previously enjoyed to regulate and control the use of water in those respective States and,

Whereas, said decisions and rulings are further a part of a general pattern developing gradually into Federal supremacy and usurpation over water which if continued will destroy individual and State rights over water and substitute in lieu thereof an all power centralized Government control,

Be it therefore resolved by the 33rd legislature of the State of Utah, the Governor concurring therein, in the Congress and the President of the United States, as representatives of Utah and the Congress of the United States be that they hereby urge and request that they take all necessary action to (1) reserve the water rights of the individuals and the States and prevent Federal usurpation of those rights (2) to see that legislation is initiated and supported to reestablish to the individuals and to the States the rights taken from them by the Federal Courts and the Justice Department

and (3) in every way possible to reaffirm the use and concepts of water rights and property rights that those established rights of the use of water by a State or individual should not be taken away without the due process of law and adequate compensation,

"Be it Further Resolved, that certified copies of the above be promptly transmitted to the President and Vice-President of the United States, Speaker of the House of Representatives of the Congress, Chairman of the United States Senate and House Committee of Interior and Insular Affairs, United States Senator Wallace F. Bennett, United States Senator Frank E. Moss, United States Representative Henry Dixon, United States Representative David S. King."

KING: I move the adoption by this board of this resolution or a similar one, to follow through with our thinking. (See Appendix I)

LEE: I'll second that, with a little change in the wording.

BROWNFIELD: Motion is carried and we'll get proper change of wording.

HORN: This other resolution was sent to me by Kelso Musser who I replaced on the board here. It is in regard to the Ouray Grazing District where they are having all the trouble in American Flats. They want to take that land away from the Bureau of Land Management and put it into the Forest Service.

"We, the Advisory Board members of the Ouray Grazing District No. 3, meeting at regular session at 10:00 a.m. October 7, 1958, made proper motion and with unanimous approval do hereby resolve that,

"Whereas, the Bureau of Land Management of the Department of the Interior now has administrative jurisdiction over the area commonly known as the American Flats, and designated by the Bureau of Land Management as the American Flats Grazing Unit and,

"Whereas, the several counties within which such American Flats Grazing Unit is located have proposed that the administrative responsibilities of the area be transferred from the Bureau of Land Management to another Federal land use agency,

"Therefore, be it resolved, that the Ouray Grazing District, Colorado No. 3, advisory members are opposed to the transfer of administrative jurisdiction of the American Flats grazing unit from the Bureau of Land Management to any other Federal land use agency."

Signed by Kelso Musser, Advisory Board Chairman. (See Appendix I)

LEE: Wouldn't your motion be better if you would say we endorse and approve the action of that board? We couldn't use that resolution just as it is on that type of a motion.

HORN: Yes, it does need correcting.

LEE: Yes, I would second that.

BROWNFIELD: Motion carried.

STRINGHAM: I was wondering if we have any resolution or any indication that we do oppose this Wilderness Bill? Is there anything on record?

BROWNFIELD: I haven't seen one.

STRINGHAM: Then I propose that Dan Hughes write one immediately and present it to us.(See Appendix I)

VAUGHT: We have a short resolution here on recommending an amendment to the Desert Land Act. I read it and proposed it here the first day, and it was requested that I hold it until we got into resolutions. I would like to read it again. Chairman Brownfield reminded me that last year we proposed an amendment similar to that, and I figure it would probably be worthwhile if we keep harping on it until we do get some change. The proposal that we made was "that the Desert Land Act be amended so as to provide that desert land entries to be irrigated from sources of underground water shall not be allowed until sufficient water is developed on the proposed entry to irrigate and reclaim all the irrigable portion of the land selected." I move the adoption. (See Appendix J)

STRINGHAM: Second it.

LEE: Don't you think you ought to put that in a little bit stronger? We ought to be a little forceful; we strongly urge the adoption.

VAUGHT: I would be very happy to have it rewritten in that way. My thinking on the thing is just this, it will focus attention to the fact that the act should be amended.

WOOZLEY: I think we're in agreement with that. We certainly like to see evident water included before we allow an entry. There are some problems involved in some of the States, however. If you give a man a special land use permit and he spends between 10 and 15 thousand dollars in developing a well, and in the meantime this land has been classified for higher use, the man to whom you have issued a special land use permit is at a disadvantage. I think what we have to do is guarantee an entry if sufficient water is developed in order to justify it. In other words, the land classification and everything else should be decided before we grant the special land use permit. In some States, we are granting special land use permits. We are doing it in Idaho. In other States, if we granted a special land use permit and a man had no allowed entry and the State came in and selected that land we could not deny the State's selection. The man would be out the money he put into a well so we do have a few difficulties in working it out. I think we're in agreement with the idea.

VAUGHT: Could we just pass this resolution and have you fellows make the addition to it when we get it into complete form here. Mr. Tudor or someone could write in the language we think is necessary to make it what we want.

WOOZLEY: That is all right with us. We'll get our legal staff and our own lands people to draft a bill along that line and then we'll probably circulate it to you to see if it meets your approval before it is presented. If that meets with your approval we'll be glad to do it.

VAUGHT: Is that agreeable to you?

BROWNFIELD: Motion is carried.

ARRIEN: Mr. Chairman, I'd like to go back to discussions on resolutions during the last four days. I wish to reinstate the resolution we had last year. I shall read it for the record.

"Whereas, the State Advisory Board unanimously agrees that the method for determining carrying capacity is not correct, that the allocation given certain species of grass is not correct,

"Whereas, we permittees are aware that this public domain belongs to all people, but we are the only segment of society that are paying to use it,

"Whereas, the 11 Western public land range States are the breeding ground for the National meat supply, and with the estimated increase in population in years to come, the area will be inadequate,

"Now, therefore, the State Advisory Board recommends the Bureau of Land Management before setting a livestock number, do conduct a survey to determine what improvements can be made to utilize all the feeds on public lands, particularly water developments so the feed can be harvested annually, and whether we are spending our money on survey carrying capacity that could be spent for range improvements."

I move that it be adopted.

HORN: I'll second it.

SWALLOW: I'd like to ask a question on this motion. Does your motion ask that new survey methods be used in determining carrying capacity?

HORN: I think as the resolution reads here it does not say that, but it says we do not agree with the methods used.

SWALLOW: Actually I think quite a number of us concur in that. However, we have taken the position in Nevada that although we don't agree that the carrying capacities as set are correct, we feel in the interest of being able to set up individual allotments without delay that we should accept at this time the carrying capacity and the ratings that have been placed on these lands, and then after individual allotments are set up we can go in and take a closer look. We feel this is a more practical approach because if we go in at this time and change the carrying capacity ratings, we're going to run into a new readjudication, and I think there is some danger in this at this time. We don't question but what there is merit to your proposition, but we don't feel that it is too practical at this time.

O'CONNEL: I feel that the representative or Oregon is suffering with what went on in the early days of the district. We had a feeling, and it was something we couldn't do anything about, that certain interests in Oregon over-appraised their cattle numbers and sheep that were running out there, and it was very badly handled. But the board at the time, and I think the old-timers will agree with me, viewed with friendly suspicion some of the claims that were made. The way things were handled, we couldn't do anything about it because everybody was representing their own territory. There has always been a lot of disagreement down there in the past, and it is a cinch you can't run more cattle than there is grass available. I don't like to dig up ancient history but they just placed themselves in an awful tough spot. It's up to them largely to solve it. The Council can only go so far but I don't think the blame should be placed entirely on the Department. These boys from Utah will remember, the old timers, there were claims set up in Utah that had to be very drastically reduced. They went ahead and did it. They didn't bring it up to the board, they did it among their own people and I think they got things pretty well settled in that State. There were mistakes made in the early days, and Mr. Arrien is suffering the consequences. We are sympathetic, but I don't see that we can go more than about so far on this. Now if the resolution will do him any good I will surely go for it, but I just want to give you that history. I'm not blaming him, they dumped their troubles on a good man, and he is willing to do the best he can.

KNAGGE: I would like to comment on some of the wording on the resolution. I believe the resolution stated that the grazing people were the only ones who were paying for the use of these lands. I just want to point out that that is dynamite. The fact that in the Taylor Grazing Act there is provision for wildlife use of the lands is being used to refute that statement. Of course, in the various States where you buy a hunting license you are more or less paying for the use of that land. I just want to point that out because there are people who don't consider themselves our friends who do like to get hold of things of that nature.

ARRIEN: I withdraw my motion. I do appreciate the comments of Mr. O'Connell and Mr. Knagge. I think perhaps the cuts that were generated here 10 or 15 years ago were cuts easier to make than they are today. If they are necessary it would have been a lot easier 15 years ago. But whatever the outcome I do believe that the survey methods must be brought to a better understanding among some of the permittees. We never like to do anything unless we can clearly see how it's done and the results derived therefrom are evident to us. I talked to John Hay, I didn't want to bring it up here particularly without consultation with other members, on a possibility of a research committee to study survey methods. I didn't feel there was enough interest to generate that kind of a motion at this time, therefore, I didn't go any further this morning.

BROWNFIELD: I think we all face similar conditions in our respective districts and more or less as a suggestion I think the best way to handle it is just work through your local boards and local district managers and try to help them to work it out.

GERBER: I would like to make a comment along this subject. I'm in probably

the smallest district in the United States. When this Taylor Act was first passed, Jerry Carpenter was very interested in getting some other district that he could point to as more or less a model for other people to see what could be done. We were very fortunate in that respect. They made all the necessary improvements within our district, and we thought now this is certainly going to be fine. We had what was probably the first range survey that was ever made back in 1934 and 1935. It became necessary for everyone to take around a 60% cut which wasn't so good. Nevertheless, we adhered to the reduction, and I don't think there has ever been a time since we took our cut that we haven't appreciated the fact they were exactly right and we were wrong in the first place. All the range examiners since that time have testified that this land is gradually getting a little bit better. We have been better off financially because of that fact. I really have quite a lot of confidence in range surveys, and I think I learned a lesson here that I'm never going to forget.

BROWNFIELD: Any more resolutions?

SWALLOW: We have a resolution that was passed by our State board we would like to present with regard to the reductions that are made by the Forest Service from time to time. The purpose of the resolution is to establish some sort of a policy between the BLM users and the Forest Service. I'll read this resolution.

"Whereas, it has been the practice of the U. S. Forest Service to make reductions of livestock numbers and time from land under their control and,

"Whereas, these livestock numbers and time when denied use of Forest Service land must either go on private land or BLM land,

"Therefore, be it resolved, that when reduction in numbers and time of livestock on Forest control lands be forced upon BLM control lands, the Forest Supervisors and Range Managers from BLM hold prior meetings to work out permits so that it will not induce undue hardship on parties involved."

I move the adoption of this motion. (See Appendix K)

BROWNFIELD: I think one of the most important things is the seasons of use.

LEE: I'll second that with the understanding that seasonal use is included. That is bothering us in our country.

BROWNFIELD: Any discussion.

ETCHART: The point is to coordinate the two. Will the cut that comes off the Forest have to be picked up by BLM?

SWALLOW: We feel that before the Forest Service makes a cut on the seasons and the time of use that the local district manager should be contacted and

the permittee informed in advance so that it will not work a hardship on the permittee and also the BLM administration because livestock are thrown on to BLM lands in most instances. That is the only place in some of these public land States where these livestock can go. Without prior notice or a board meeting in working out the overall grazing plan it does work a hardship and for that reason we felt something should be done in advance so the Forest Service could be contacted and they would be asked to work with BLM officials with the problem. It's not suggesting that BLM lands carry the greater load to make up the difference.

LEE: It does work the other way, too. You see, what they will do, an outfit is supposed to go on the first of May, and they'll delay it until the 15th and that makes the man in trespass on BLM land for 15 days until he can get his permit.

KERR: Some years ago Milt Reid, working with Walt Dutton who's been Chief of Grazing in Forest Service here in Washington, developed an agreement by which the supervisors and district managers on respective areas would coordinate their management efforts where it involved an off-and-on use through the two agencies. It worked pretty well in these areas; there have been some cases where it hasn't. Prior to that we were in a mess all the time because Forest Service would delay the opening date for two or three weeks and in the meantime the stockman had put his stock out on the public land and anticipated going onto the Forest on a specific date. The delay in going on the Forest meant that much more use on our land. The agreement provides for the district manager and the forest ranger or forest supervisor to work together on it. We've had a number of cases where they didn't. We've called it to the attention of Forest Service and corrective measures have been taken. I'm not opposing the resolution at all, I'm just giving you this information.

SWALLOW: In Nevada we're aware of this agreement, and it doesn't fit. It is a problem with the permittees and a number of the BLM offices in Nevada and we feel that it should be brought to the attention of the Forest Service by this Council so the condition can be corrected.

BROWNFIELD: Any questions?

LEE: I was wondering if you wouldn't accomplish your purpose better, because it's a problem with us in New Mexico, to change the wording a little and add that there is an agreement that does exist between the two Departments, and we wish the Bureau of Land Management would renovate the agreement and see if it can be coordinated a little better.

SWALLOW: I will accept your proposed wording of the resolution.

BROWNFIELD: I understand you want the resolution with those suggested changes. Any other questions? Motion is carried.

KNAGGE: Mr. Chairman, speaking in regard to the Wilderness Bill, I would like to move that this body go on record in asking the Congress to delay its passage until such time as the Recreation Resources Review Commission report

is in so we can intelligently study the problem and either endorse or oppose the bill at that time.

HORN: I'll second it.

BROWNFIELD: Any discussion on the gentleman's motion?

HUGHES: I think that type of motion is a whole lot better than trying to go on the long one now as Bry probably had in mind. Either that type of motion or the one that shortens it to saying we're in favor of multiple use program and management of public lands and believe that the Wilderness Bill is not in conformity with multiple use. I'm inclined to go along with the motion that we ask Congress to defer action until the report is made which would be better.

BROWNFIELD: Any more questions. Signify by saying Aye.

For 18 years now at these meetings, we issue a press release of the most important things that transpired. Now a suggestion has come to me that perhaps it would be wise at this time, and there has been some discussion during the days we've been here, to have a few more press releases. We'd like to know what your pleasure is at this particular time. I was asked an interview yesterday and refused it. I think it would be possible for us to get someone like the Director, or Jerry, to assist us in writing up the most important things that have happened while we're in session here. What is your reaction?

FAULKNER: I think it would be very good if we can get something that is uniform and send it to our local papers.

BROWNFIELD: Is that your pleasure?

LEE: I move that we request the Department to do that.

HEATON: I'll second the motion.

WOOZLEY: We'll offer our services here, we have people who are pretty familiar with what has happened here and with your philosophies now. We also have people in our Information Service who could help draft a financial press release to go out all over the country. If it is to be in the Sunday paper it should go out tomorrow. It is more widely read than the daily. Then if you like, along with what you have suggested here, we could formulate a proposed press release that you could take back and let your own advisory board fill in the gaps on how it will affect you on the things that have happened here so that you will have a double shot at it, one from a National, overall level and other that could be applied to your local situation. If you would like us to do it that way we will offer our services. However, if you want to do it locally and don't make a National press release, it could be handled the way Mr. Brownfield and Mr. Lee have been handling theirs.

LEE: In the past history of the Board we've gotten into very serious trouble with the definition of what a word means. We've been using the

word "multiple-use" very freely as though it was a cure-all for everything and there never has been a definition of what we mean by multiple use. Does multiple use mean that on every piece of land there must be sheep, cattle, game, hunters and recreational use? Or do we mean certain areas? Now there are certain areas that are better for cattle, certain areas maybe for sheep, certain areas for both cattle and sheep, certain areas probably for certain types of game. I can see that some of these people are beginning to lay plans to catch us on this word multiple use.

I don't know how many of you have read the new book that has come out in California on their land problem but it makes a pretty good analysis of California land problems and the land situation. You'll notice in the last paragraph of that book they want to know what multiple use is, what it means. They say it is too broad for the way it is being used. I think our free use of that word without a definition of what it means is going to get us into trouble and maybe in our next session we should have a definition of what the word means in the Code. I would like to put that before you because some of these Bureaus are going to hook us with it someday if we can't define it.

WOOZLEY: I'd like to say that in the last eight or ten talks I have given, I have been using the word "balanced use." "Balanced use" of public lands, taking into account the paramount use and balancing that with other uses. I think when we look at it you can't say multiple use without inferring that everything has an equal use. When you talk about balanced use, certainly at any given time there is a paramount use for land, and there are other uses that can be balanced in with it. It's something like classification, except that it is present use.

STRINGHAM: I had one other thing. When we pass a resolution we never know how it's going to catch on. For instance, this resolution by the Utah legislature, we had no idea what it would do but it caught fire and went to 32 States. So sometimes we strike the right cord. Two right here are of importance to us, the Wilderness Bill and also the State water rights bill. I was wondering if we could just send this motion and this resolution to all the advisory boards, to all the State legislatures who are now in session and have it go out immediately, because we are concerned?

WOOZLEY: We can't see why it can't go out immediately. If you want it to go out we will do our best in reproducing it.

KERR: All we need is a copy of the resolution.

STROSNIDER: At this time I'd like to offer a short resolution. I would like to thank the Solicitor at this time for sending us the services of Joe Tudor, our Chief Counsel here. I move the adoption of the resolution.

NOBLE (Wyoming): I have a few problems that concern the wildlife people in my area. The main issue I'd like to touch on here is the extension of public land out there. They feel it's going to do away with an industry. They also feel that in great storms and one thing or another we will have a great loss in wildlife. The BLM has done a wonderful job in building water holes and small reservoirs over the desert which scattered the stock out. It is

wonderful range management. But they oppose the fences very much. Another thing they oppose very much is the spraying of sagebrush. They figure sagebrush is a great feed. The elk, deer and antelope depend on the sagebrush. If they eliminate much of that we're going to lose a lot of our wildlife. Also the domestic stock depend on it at times. If we kill the sagebrush on our public lands, then have a dry year, what little soil there is blows off, and we can never restore that land. I think we should take a little more time with spraying. They like to put it this way, they figure it costs around $1,000 to $1,500 to build a good fence around public land. They figure it costs approximately $3 an acre to spray sagebrush, then they sell forage for 22¢ an AUM. They figure it's not a sound practice, it is not economical, it is not ethical, and it is unAmerican.

BROWNFIELD: Anyone else?

KERR: Would the Council wish to take up,while we're all here, the place and State for our meeting next year. We didn't have to get out special notices or ask for your recommendations this year. If it's agreeable to you I'd like to see you do it again this year.

STRINGHAM: I make a motion that we meet the last week in February and in order to satisfy my Board I move we meet in Salt Lake City.

FAULKNER: It will be easier to get to Salt Lake, but this is the only Bureau I know of that has an Advisory Board, and I think if we meet here we have better contacts and better recognition.

LEE: If we meet out there we don't have the Under Secretary come in and talk or you don't have a chance to go in and visit him. Here we give them a chance to see the National Council in session and here the men get to see them.

BROWNFIELD: Those in favor of going to Salt Lake show your hands. I guess we come back to Washington.

BROWNFIELD: Any other unfinished business.

HORN: I feel that when these proposed Code changes are sent out in the field to Advisory Board members, it's just hard for those boys to analyze for a number of States. Many things they send in here very often conflict with what the National Board comes up with because they just don't have an overall picture. I think many things which come up should get started at the top, and come back to our local boards for approval. I feel we would get better changes in the Code than if we start from the bottom. In Colorado the boards came up with all kinds of ideas because they didn't realize the problems that we had even at State levels. I would like to see those proposed Code changes come out, go to State and National levels and then go to District Boards. I feel even though it's a long way around, these suggestions should definitely come from the grazing districts.

When those different questionnaires are sent out and you get the returns in from the Districts they come up with entirely different

recommendations; many that don't fit with the State of National Council thought. If you have a big majority in your local boards that don't fit into your National Council do they mean anything here or just exactly where are we? We change our view entirely after the Council meets.

KERR: Sec. 18 of the Taylor Grazing Act provides that consideration of the rules and regulations is the job of the district advisory boards. The Taylor Act does not provide for the State Board nor the National Council. Actually if we follow the act we should send them out to the district boards, get their recommendations, and I think the preferable way in view of your thinking, Leonard, is to get them out in time enough so that we could consider them possibly at the State or even National Council level, then send them down through the States and the districts as they are approved by the Council. There may be one criticism to this procedure; the Council may tend to dominate the thinking of the district board. They may possibly be over-persuaded or influenced by the fact that this was adopted by the Council, whereas if they consider it cold they might come up with an entirely different view on it.

HORN: Most district boards just don't have the over-all picture, that is the thing I was getting at, Jerry.

O'CONNELL: The reaction that I get, what are you fellows doing down there, changing this Code all the time. Every year you come out with changes. I think the users over the years have been satisfied. They depend on us to look after their interests. They've read the Code as it originally came out and approved it. And then they question why it should be changed.

KERR: I'll try to answer why revisions must be made in the Code. In some cases it's a decision by an Examiner, an interpretation that he's placed on our regulations, but I have the history of the way the Code has operated, how the Advisory Boards have operated, what in their general views a regulation means and how they can be applied. For contrast we have Examiner's who lack that background of experience. The only thing they have to go on are the decisions that are rendered by the Secretary or the Director or other Hearings Examiners, in keeping with the past practice. So in order to correct that situation in some cases it is desirable to propose an amendment. The addition of that definition of adjudication is something that we should have had long ago. But the field Solicitor's opinion that issuance of licenses constitutes adjudication cannot be allowed to stand. The attorneys say the grazing cases are the hardest cases they have to handle, because of the complications in the regulations. And surely it's not my view nor the view of the Director, nor the Department for that matter, that the regulations should be changed unless there is some real vital reason for it. It's a long process getting the job done for one thing and there's a lot of work attached to it besides complicating the job out in the field.

ESPLIN: Jerry, do you have a very great variance in the recommendations made by your local boards?

KERR: Yes, as I indicated in my summary the first day, there is quite a variance in views expressed by the local boards and by the State boards.

ESPLIN: I wanted the Director to hear this. This is a matter of policy of management at district level. These figures here for travel expense and various operating expense. We get $2400 a year for that district. It takes $300 for each advisory board meeting, we have four meetings, that takes $1200 of this amount. A State Advisory Board meeting takes about $275 and then the District Managers and clerks meeting takes $225. That takes $1700 of this money. This does not include any special meetings such as a meeting the last of January on the Range Code, which cost $225. And then we have the National Advisory Board Council meeting at $275 - that makes $500. Add that all up and it leaves only $200 for travel expense, within our area. They say stay within the budget on range management. This $200 should include vehicle operation, telephone expense in the office, and travel expense while in travel status. To do all this we'd have to stretch the $200 mighty thin. What we're concerned about, we have two or three fellows there in the office that are supposed to be out on the range doing work. If they are confined to this travel expense, the just can't do that job. They're just in the office marking time when they should be out in the field. I wanted to check with you, maybe it's up to them to make a different allocation within the district on their funds. I realize that this comes from a pushed economy that we're trying to put over within the Department, but we're wondering if they're economizing in the wrong place to do an efficient job.

KERR: That's a pretty common complaint in all the districts. If Ches was here he could tell you that as he views the situation in 1960 they won't be able to carry enough salary money to carry on present tasks. Of course, there is very little use for having people on the staff if you don't have travel money so they can do their field work.

ESPLIN: The thing that I wanted to bring to the attention of the Council is, that condition brings about inefficiency. We're not getting any efficiency out of these two that are there on the payroll.

WOOZLEY: The district manager should take that up with the State Supervisor, and he in turn with the Area Budget and Finance Officer. We can't do anything about giving you more money although we have tried. We can make better use of the money through better programming and utilization. There may be some places where travel money is excessive in the same area. I don't know of any but in that case we could make adjustments between one district and another.

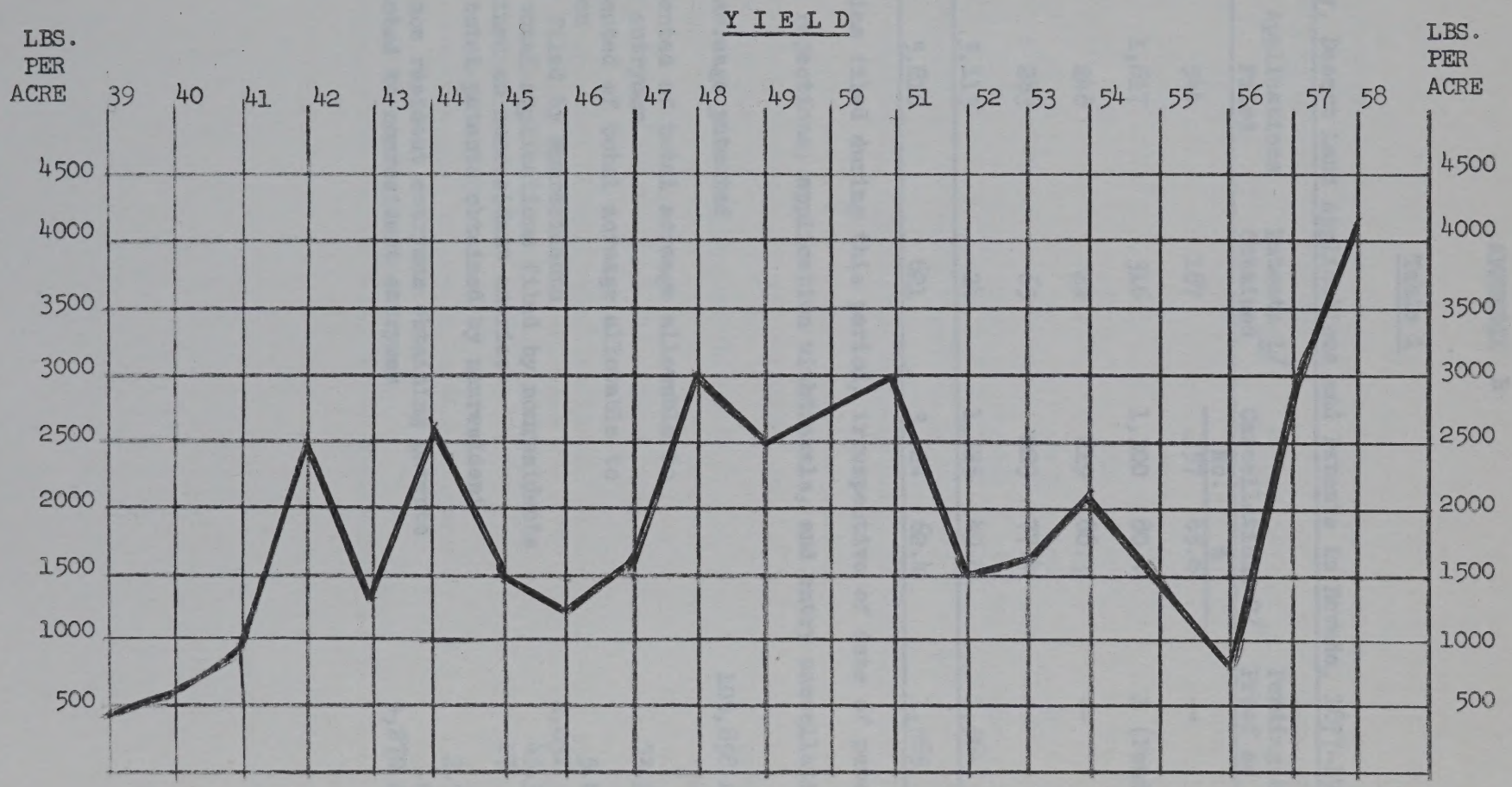
LEE: I move that we thank the Director and the members of his staff and the Bureau for attending and helping us in the meeting and to giving us their advice and talks they made and that we go now into executive session.

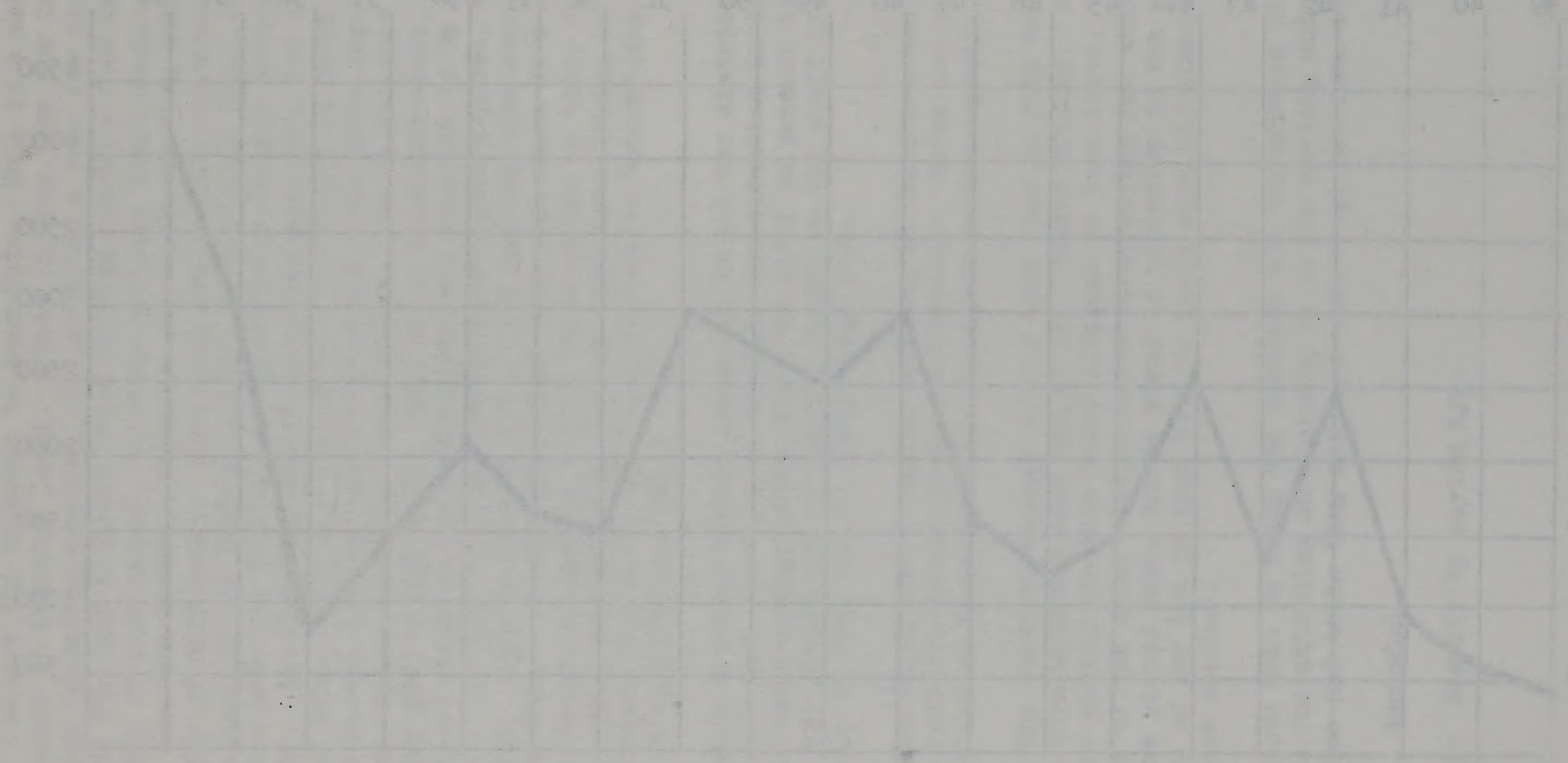
FAULKNER: Seconded.

BROWNFIELD: Signify by saying Aye.

Appendix A

Annual Variation in Forage Production
on Gramma Grass Range - '39-'58





APPENDIX B

Table 1

Grand Summary, Desert Land Applications and Patents in Nevada, 1877-1958

Period	Applications Filed	Patents 1/ Obtained	Cancellations 2/ No.	Cancellations 2/ %	Pending Allowance or Proof as of 1/10/59
1877-1910	544	187	357	65.6	--
1911-1920	1,617	316	1,300	80.4	1 (Pending survey)
1921-1925	248	29	219	88.3	--
1926-1946	283	65	223	77.4	--
1947-1958	3,113	24	1,525	49.0	1,564
Totals	5,810	621	3,624	62.4	1,565

1/ For entries filed during this period, irrespective of date of patent.

2/ Includes rejections, application withdrawals, and entry cancellations.

Grand total acreage patented	105,858 A.
Per cent patented of total acreage allowable to successful entrymen	53.3
Per cent patented of total acreage allowable to all entrymen	5.6
Applications filed by nonresidents	2,631
Per cent of total applications filed by nonresidents	45.3
Patents obtained on nonresident entries	17
Per cent of total patents obtained by nonresident entrymen	2.7
Per cent of non resident entrymen obtaining patents	.64
Acreage patented to nonresident entrymen	4,270 A.

APPENDIX C

Table 2

Grand Summary, Pittman Act Applications and Patents in Nevada, 1919-1958

Period	Applications Filed	Patents 1/ Obtained	Cancellations 2/		Pending Allowance or Proof as of 1/10/59	
			No.	%	No.	%
1919-1920	333	9	324	97.3	--	--
1921-1925	462	6	456	98.7	--	--
1926-1948	400	17	380	95.0	3	.07
1949-1958	1,424	--	609	42.7	815	57.30
Totals	2,619	32	1,769	67.5	818	31.2

1/ For entries filed during this period, irrespective of date of patent.

2/ Includes rejections, application withdrawals, and entry cancellations.

Grand total acreage patented	19,219 A.
Per cent patented of total acreage allowable to successful entrymen	100.0
Per cent patented of total acreage allowable to all entrymen	1.1
Applications filed by nonresidents	1,845
Per cent total applications filed by nonresidents	70.4
Patents obtained on nonresident entries	18
Percentage of successful nonresident entrymen	.97
Percentage of successful resident entrymen	1.81
Acreage of patented land for which groundwater appropriated as of 1/10/59	471 A.
Per cent of patented land, ditto	2.5
Per cent of total acreage allowable to all entrymen ditto	0.03
Number of economic unit farms developed	3
Number of economic unit farms developed by nonresident entrymen	1

APPENDIX C

Table 2

Grand Summary, Pittman Act Applications and Patents in Nevada, 1919-1958

Period	Applications Filed	Patents 1/ Obtained	Cancellations 2/ No.	Cancellations 2/ %	Pending Allowance or Proof as of 1/10/59 No.	Pending Allowance or Proof as of 1/10/59 %
1919-1920	333	9	324	97.3	--	--
1921-1925	466	6	454	98.7	--	--
1926-1948	400	17	380	95.0	3	.07
1949-1958	1,429	--	609	42.7	815	57.30
Totals	2,610	32	1,759	67.5	818	31.3

1/ For entries filed during this period, irrespective of date of patent.

2/ Includes rejections, application withdrawals, and entry cancellations.

APPENDIX D

PROPOSED REVISIONS OF
THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Section 161.6(e)(3)

The amendment of this section is necessary only in the event the proposal amendment of section 161.6(f) is approved.

(3) No license or permit will confer grazing privileges in excess of the grazing capacity of the Federal range, except as may be allowed under 161.6(f)(3).

Section 161.6(e)(13)

The National Advisory Board Council, at its meeting in Washington, D. C. in February 1958, recommended for adoption the following substitute wording for 13(ii):

(13(ii) [The Bureau of Land Management may make such readjudication at any time when necessary to comply with the Federal Range Code for Grazing Districts.]

No readjudication of any license or permit, including free use license, will be made on the claims of the Bureau of Land Management with respect to the qualification of the base property or as to the livestock numbers or season of use of the Federal range allotment or the boundaries of a Federal range individual allotment where such qualifications or such allotment or boundaries had been recognized and license or permit has been issued for a period of three consecutive years of more, immediately preceding such claims, except on the grounds of gross misrepresentation or fraud at the time of adjudication. Effective three years after date of approval.

An alternative to this proposal, which we feel is more appropriate and will better accomplish the purpose, is the following:

13(i) No readjudication of any license or permit, including free use license, will be made [on the claim of any applicant or intervener] with respect to the qualifications of the base property, or as to the livestock numbers or seasons of use of the Federal range allotment where such qualifications or such allotment has been recognized and license or permit has issued for a period of three consecutive years or more, immediately preceding such claim, except on the grounds of gross misrepresentation or fraud at the time of adjudication.

Section 161.6(f)

The wording added to 161.6(f)(ii) appears necessary to show more clearly the intent of this subsection.

The proposed new subsection (3), providing for scheduling of reductions over periods from one to three years has been suggested from time to time, most recently by the Oregon Cattlegrowers Association. This radical change from past practice is justifiable only if the range users affected agree in advance to the stipulations in new subsections 6(f)(4) and 6(f)(5).

It is suggested that application of the new subsection (3) be made contingent upon agreement by the users of the particular range to cooperate with the Bureau in the activities set forth in the proposed new subsection (4).

6(f)(1) No change.

6(f)(1)(i) No change.

6(f)(1)(ii) Regular licenses or permits to the extent if any, to which they have been improperly issued or issued in excess of the base property qualification.

6(f)(2) No Change.

6(f)(3) When the district manager, after referral to the advisory board, determines that the imposition of the full amount of the reduction in grazing privileges from current licensed use necessary to reach the grazing capacity of any range area will impose a serious hardship on the range users, he may schedule reductions in accordance with the following formula, provided all of the users agree to abide by the provisions 6(f)(4) and 6(f)(5):

(a) All reductions up to and including 25 percent will be imposed the first year.

(b) Reductions between 25 and 50 percent will be applied the second year.

(c) Reductions of 50 percent and over will be applied the third year.

6(f)(4) The adoption of the plans described under 3(b) or 3(c) above is contingent upon advance agreement by the users to make reasonable and equitable contributions in money, materials or labor toward improvement projects designed to facilitate the rehabilitation of the Federal range, such as needed stock water developments, fences, seeding, etc., and to abide by the terms of their licenses, and instructions by the district manager for

salting, distribution of grazing uses and other actions necessary to improved management of the range.

6(f)(5) The adoption of the plan for reductions described in 3(b) and 3(c) shall not impose upon the Bureau a requirement for a resurvey of the range affected preliminary to the imposition of the full reductions originally set for the second or third year. The Bureau may, however, make resurveys on its own initiative.

6(f)(6) Increases in the grazing capacity of the range area involved as a result of the actions or treatment under (3) and (4) above will be apportioned among the respective users in accordance with the provisions of section 161.6(g)(2)(ii) or (iii), which ever is applicable.

Section 161.6(g)

The former section is subdivided into Part (1) covering allotments and (2) covering the distribution of increased grazing capacity. The primary purpose of (2) is to provide specifically by regulation what has heretofore been only a matter of Bureau policy.

6(g)(1) Allotments of Federal range will be made to licensees or permittees when conditions warrant. Division of the range by private agreement or former practice will be followed where practicable provided such division is in substantial conformity with the qualification for grazing privileges of the respective applications and the agreement is reduced to writing and approved by the [range] district manager. [Increases in grazing capacity will be participated in by existing preference licensees and permittees to the extent of and in proportion to their respective qualifications.]

6(g)(2)(i) Increases in grazing capacity of an individual allotment resulting from proper grazing uses, seeding or other measures taken by the allottee will accrue to the allottee provided base property qualifications are maintained.

(ii) Increases in the grazing capacity of a group allotment attributable to the efforts and practices of the users will be participated in by existing preference licensees or permittees to the extent of and in proportion to their respective contributions toward the improvement in grazing conditions, provided base property qualifications are maintained.

(iii) When increases result from the cooperative effort of the Government and the licensees or permittees, the latter shall have a preference for the increased forage to the extent of and in proportion to their respective contributions and class 1 base qualifications. Any surplus forage remaining will be available for distribution to properties in class 2.

(iv) Increases attributable solely to Governmental expenditures shall be available for distribution by the Bureau to remedy grazing problems in the surrounding range area as well as to class 1 properties.

Section 161.8

The heading of this section is revised to include proposed "assessment for delinquent payments."

1. The heading for 161.8(d) is revised similarly. In addition, the wording "extension of" is replaced by "adjustments in" which is more appropriate.

2. The first sentence of section 161.8(d) is stricken. The issuance or renewal of licenses and permits prior or without regard to the payment of fees is necessary to the firming of the contract initiated by the completion by the applicant and approval by the district manager of the application for grazing privileges (form 4-1174 and 4-1283). The clause in the eighth line of the second sentence, reading "no license or permit shall be effective to authorize grazing use thereunder until such payment (of fees) has been made", provides authority for the enforcement of trespass in the event livestock is put on the range prior to the payment of the fees.

3. The words "license or" are added in the third sentence so that it will read: "A license or permit may be canceled or reduced pursuant to 161.9(d) for failure to pay the annual fee in accordance with the fee notice." This change is necessary if licenses are issued prior to the payment of fees.

4. The addition of the terminal sentence: "Otherwise the full amount of the grazing fees will be due and payable," is a positive statement of what is implied in the preceding sentence.

5. The present subparagraph (e) of section 161.8 is redesignated as subparagraph (f).

6. A new subparagraph (e) relating to delinquent payments is added.

161.8 Fees; time of payment; assessment for delinquent payment; refunds.

8(a) No change.

8(b) No change.

8(c) No change.

8(d) Payment of fees; assessment for delinquent payment; reduction or increase in numbers; [extension of] adjustments in periods of use.

[No license or permit shall be issued or renewed until payment of all fees and other amounts due the United States under the Federal Range Code for Grazing Districts has been made.] Fees for licenses and permits are due the United States upon issuance of the fee notice pursuant to application and are payable annually at least 15 days in advance of the first grazing period and for the full amount indicated on the fee notice; no license or permit shall be effective to authorize grazing use thereunder until such payment has been made. 2/ A license or permit may be canceled or reduced pursuant to 161.9(d) for failure to pay the annual fee in accordance with the fee notice. Any licensee or permittee who desires to make temporary use of the grazing privileges during any authorized grazing period or periods in a manner other than that authorized in his existing license or permit must obtain the permission of the [range] district manager at least 30 days prior to the beginning of any such grazing period, in which case an adjusted fee notice will be issued accordingly. Otherwise, the full amount of the grazing fee is due and payable.

8(e) Assessment for delinquent payment. An additional charge of 10 percent of the full amount of the fee shall be assessed in the event that payment is delinquent from 1 to 30 days. The additional charge shall be increased by 5 percent of the full amount of the fee for each additional 15-day period of delinquency or part thereof, to a maximum of 25 percent of the total amount of the fee.

8(f) Same as former subsection 8(e).

Section 161.9

The primary purpose of the revisions proposed in this section is to describe procedures in certain actions not specifically provided for at present.

161.9 Procedure in applications; protests - (a) filing and consideration of applications; inter-district agreements; recommendations; service of notice.

9(1) No change.

9(2) No change.

9(3) No change.

9(4) The advisory board will make its recommendation to the district manager and, if such recommendation is to any extent adverse, it shall set forth the reasons therefor. If

such recommendation is favorable and the district manager approves, he will notify the applicant by ordinary mail which notice may be the fee billing and/or the license. If the advisory board recommendation is favorable but the district manager disagrees, notice will be served on the applicant in person or by certified mail sent to his address of record setting forth the recommendation of the advisory board and the manager's disapproval together with the reason or reasons for a prospective adverse decision including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts in which the application is deficient, and naming a date, not less than ten days thereafter, on or before which oral or written protest may be presented to the district manager. If the recommendation of the board is to any extent adverse, notice will be served on the applicant in person or by certified mail sent to his address of record, setting out the reason or reasons given by the advisory board for the adverse recommendation including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts in which the application is deficient, and naming a place and date, not less than ten days thereafter, when protest against the recommendation will be heard. The district manager may also serve notice on any other applicant who may be directly affected by the adoption of the advisory board recommendation or the propsective decision of the manager, which will allow an appropriate protest. In any case where consideration of an application involves only issues previously adjudicated involving the same applicant or his predecessors in interest, the same base property and the same area of use, the advisory board may recommend that a protest meeting not be held; whereupon, the district manager shall accept the recommendation of the board as its final consideration.

9(b) Protests; reconsideration by advisory board; service of notice.

At the time and place fixed for the protest meeting, any licensee, permittee, or applicant may appear, in person or by attorney or other representative or may file a written protest with the advisory board, which thereupon will reconsider its previous recommendation in the light of the protest and will make a final recommendation to the district manager. If such recommendation is favorable to the applicant, and the district manager approves, he will notify the applicant thereof by ordinary mail which notice may be the fee billing and/or the license. If the recommendation is to any extent adverse, and the district manager approves, a notice giving the reason or reasons therefor will be served on the applicant in person or by certified mail, including a reference to the pertinent sections or provisions of the Federal Range Code for Grazing Districts in which the application is deficient. Such notice will constitute the district manager's final decision for purposes of appeal.

9(c) Allowance or rejection of application; modification; service of notice.

The district manager, in the light of all facts and circumstances and after reference to the advisory board may issue or refuse to issue a grazing license or permit. When the district manager takes an adverse action on any application, a notice including a recital of the specific reasons for the action taken will be served on the applicant in person or by certified mail. The notice will advise the applicant of his privileges to appeal to an examiner.

9(d) No change.

Section 161.12

12(a) No change.

12(b) No change.

12(c)(1) No change.

12(c)(2) Where the owner of the trespassing livestock, or his representative is known, the district manager shall make a determination of the value of the forage consumed and damage to the Federal range and other property of the United States and shall render a bill to the alleged violator detailing the foregoing values including in addition, a charge for trespass grazing fees determined as follows:

(i) for trespass not clearly wilful, 10 times the regular grazing fee in effect at the time of the violation with a minimum charge of one dollar per animal unit;

(ii) for repeated and wilful trespass, 20 times the regular grazing fee in effect at the time of the violation with a minimum charge of one dollar per animal unit.

12(c)(3) (Former 12(c)(2) as amended) In any case where the owner of the trespassing livestock, or his representative, is unknown, or where conservation of the Federal range and of the forage thereon requires it, the [range] district manager when so authorized by order of the State Supervisor may take steps to remove the trespassing livestock by such methods and by such means, including the use of airborne or motor-driven vehicles, as may be necessary, and to dispose of them by sale or otherwise within not less than 48 hours after public notice of his intention to make such disposition, subject to the right of any owner or registered lien holder of

such trespassing livestock to redeem the livestock within such non-disposal period upon payment of (i) the value of the forage consumed, (ii) the damage to the Federal range and other property of the United States [and] (iii) the cost of such impoundment and removal, as determined by the [range] district manager, and (iv) charges for trespass fees as determined in paragraph 161.12(c)(2) of this section.

12(c)(4) Same as former 12(c)(3).

12(d) Amicable settlement of civil cases involving damage to Federal property.

All offers of settlement exceeding $2000 for the value of forage consumed in trespass, for damage to Federal range or to other property of the United States and the charges for trespass grazing fees as determined in paragraph (c)(2) of this section, resulting from an alleged violation of any provision of the act or of the Federal Range Code for Grazing Districts will be transmitted to the State Supervisor for consideration. All offers of settlement of less than $2000 may be considered and finally accepted by the district manager. An offer of settlement will not constitute satisfaction of civil liability for the damage involved until finally accepted by the district manager or the State Supervisor, as the case may be, and in no event will it relieve the violator of criminal liability. No license or permit will be issued or renewed until payment of any amount found to be due the United States under this section has been offered and until payment of any amount due as grazing fees has been made.

Section 161.17

"District manager" is substituted for "State Supervisor" since the authority for accepting contributions under section 9 of the Taylor Act has been redelegated to the district managers.

161.17 Contributions, for administration, protection, and improvement of public lands.

The [State Supervisor] district manager may accept contributions, under section 9 of the act, of labor, materials, equipment, or money, toward any of the Bureau's functions in administering, protecting, and improving public lands under its jurisdiction in the States.

17(a) Any individual, association, corporation, grazing district advisory board, State or local body or private group, may enter into an agreement with the [State Supervisor] district manager with respect to such contribution. Where the contribution is to include money, the contributor should execute form 4-1268 or 4-1269 as requested by the district manager.

17(b) No change.

17(c) Upon written request of the contributor, the [State Supervisor] district manager may authorize refund of any amount deposited, in excess of the contributor's proper share of the expense incident to the purpose for which the contribution was made.

A further amendment of the Code is the proposed addition of a definition of "Adjudication of Grazing Privileges." There appears to be some confusion of the meaning of this term.

Section 161.2 - Definitions

(r) Adjudication of Grazing Privileges is the determination of the qualifications for grazing privileges of the base properties, land or water, offered in support of applications for grazing licenses or permits in a range unit or area, followed by an equitable apportionment among the applicants of the forage production of the particular unit or area of Federal range, and acceptance by the applicants of the grazing privileges based upon the apportionment or its substantiation in a decision by an examiner, the Director or the Secretary upon appeal.

17-(b) No change.

17(a). Upon written request of the contributor, the State Supervisory District Agent may authorize refund of any amount deposited, in excess of the contributor's proper share of the expense incident to the purpose for which the contribution was made.

A further amendment of the Code is the proposed addition of a definition of "Adjudication of Grazing Privileges." There appears to be some confusion of the meaning of this term.

Section 161.2 - Definitions

(r) Adjudication of Grazing Privileges is the determination of the qualifications for grazing privileges of the base properties, land or water, offered in support of applications for Grazing Licenses or permits in a range unit or area, followed by an equitable apportionment among the applicants of the forage production of the particular unit or area of Federal range, and acceptance by the applicants of the grazing privileges based upon the apportionment or its substitution in a decision by an examiner, the Director or the Secretary upon appeal.

APPENDIX E

Resolution

Monticello Grazing District, Utah #6

The Monticello Grazing District Advisory Board, as duly elected representatives of the licensees and permittees of Monticello Grazing District, Utah No. 6, hereby request that the Utah State Advisory Board representatives of the National Advisory Board Council do all in their power to help us obtain an immediate and final determination to the constant trespass that occurs in the Southern part of this district by the Indians of the Navajo tribe.

It is also requested that the Council support and promote the proposed lines of extension on McCrackin Mesa as proposed to the Bureau of Land Management.

It is further requested that the Navajo tribe be required to fence the proposed exchange and to move trespassing navajos within the boundaries of the exchange, or back on the existing reservation.

We further submit that local Bureau of Land Management officials have not had sufficient backing on the trespass problems.

Respectfully submitted,

Kenneth Summers
Clyde Neilson
Clarence Perkins
Reed Bailus
Melvin K. Dalton

APPENDIX F

Resolution

WHEREAS, in the administration of the United States Public Lands, which include the areas under administration of the United States Forest Service and the Bureau of Land Management, which lands are dedicated to multi-use purposes, and

WHEREAS, a burgeoning population is vastly increasing the use of said lands for wildlife and recreational purposes, and

WHEREAS, much of the land under the administration of the Bureau of Land Management is in pitiful condition and further deteriorating rapidly from the abuses and misuse of grazing privileges, resulting in an accentuating condition of soil erosion, water wasting, and depletion of the vegetation seriously affecting not only the commercial production of the lands, but also seriously depleting the recreational and wildlife advantages on said land, and

WHEREAS, the Bureau of Land Management is seriously handicapped in their administration of the public lands through lack of sufficient appropriations and personnel, to adequately perform the duties and acts as provided for in the FEDERAL RANGE CODE FOR GRAZING DISTRICTS, and

WHEREAS, the said Federal Range Code is in need of study and improving by way of amendments, in the following apparent weaknesses, to-wit:

1. In general the grazing fees are too low and should be revised upward to a basic fee commensurate with the fees charged by the United States Forest Service;

2. Being dedicated to the multi-purposes of said lands, the composition of the District Advisory Boards as provided for in said Federal Range Code should be changed to include a 50% membership from the established conservation groups, such as the Fish and Wildlife Service, the State Game Commission of the area involved, the Water Resource Organization and possibly the Soil Conservation State organization;

3. Appropriations for the administration of the lands under the Bureau of Land Management have been very insufficient for carrying out a consistent program of improvement.

NOW THEREFORE BE IT RESOLVED by the Oregon Division, Izaak Walton League of America, in convention assembled at Eugene, Oregon this 29th day of November 1958, that they institute and promote a program as above outlined, for correction of the weaknesses, and improvements in the administration of the Public Lands by the Bureau of Land Management by all available and proper means, and that copies of this resolution be presented to all Oregon members of Congress, the Secretary of the Interior, the Secretary of Agriculture, the Izaak Walton League of America, Inc., the U.S. Fish and Wildlife Service

and various sportsmen's groups and outdoor magazines.

BE IT FURTHER RESOLVED that we highly commend Secretary of the Interior, Fred A. Seaton, and his associates for the admirable conduct of his office, with especial regard for his attitude in interpreting the multi-use purpose, recreation and conservation that is the foundation of our Public Land Laws;

BE IT FURTHER RESOLVED that we highly commend and approve the administration of the Chief of the Forest Service, Richard E. McArdle and the Forest Service personnel.

APPENDIX G

Resolution

WHEREAS, the National Association of Soil Conservation Districts hold that public lands are held in trust and must be devoted to the highest possible use for the benefit of all the people recognizing sustained yield and multiple use of renewable national resources as basic principles of public land use and management, and

WHEREAS, in order to achieve the above objectives there is a need to provide a greater incentive to range users to invest in range conservation and development on federally owned range lands by appreciated instead of depreciating investments made in connection with the installations, maintenance of conservation and development works, and

WHEREAS, under present regulations Federal lands can be withdrawn from range use without adequate compensation to range users for his investments and improvements in range conservation and development facilities,

THEREFORE, be it resolved that when federally owned range lands are withdrawn from range use or disposed of for any reason or the permittee's license permanently cancelled that range users be compensated for their investments or range conservation and development of these lands, for the amount of their fair market appraisal value plus interest at 5% per annum of the original capitol investment for the period which the improvements have been installed up to a maximum of 20 years provided the improvements have been adequately maintained by the users.

APPENDIX H

Resolution

The State Advisory Board composed of representatives of all Grazing District Advisory Boards in Arizona, in a meeting at Phoenix, Arizona on February 4, 1959, adopted the following resolution;

WHEREAS, The San Carlos Apache Indian Tribe ceded to the United States of America, in the year 1896, certain lands adjoining their present reservation. These lands, commonly referred to as the "Mineral Strip", consist of approximately 232,320 acres, 32,000 acres of which have since been patented and are in private or state ownership, and

WHEREAS, Application has now been made to the Secretary of the Interior for the return of said ceded lands to the Tribe, the same to become a part of the San Carlos Apache Reservation, and

WHEREAS, It will be detrimental to the best public interest for said lands to be returned to the Tribe from the standpoint of future development and for the other reasons cited below:

(1) The livelihood of 26 ranch families is wholly or partially dependent upon said ceded lands. Large sums of money having been expended by the present owners of the patented lands for homes, grazing rights, roads, fences, water developments, perfection of water rights, and other range improvements, such purchases and expenditures having been made in good faith with reliance on clear title to their patented lands and with confidence that the use of the ceded lands would be perpetual, a return of said ceded lands to the Apache Tribe would, therefore, amount to confiscation of a lifetime of investments of money and management since the small private holdings would be practically valueless if stripped of the present grazing rights attached thereto.

(2) The return of said lands to the Apache Tribe would remove from the county and state tax rolls of Arizona approximately 32,000 acres of patented lands, all residential and ranch improvements and livestock, together with the income tax benefits which presently accrue to the state and Federal governments.

(3) On February 18, 1931 said ceded lands were temporarily withdrawn from mining entry at the request of the San Carlos Apache Tribe, said temporary withdrawal being still in effect. Previous to this temporary withdrawal, many mining claims were located on said lands, some of which have been in production for many years and have, along with numerous other undeveloped prospects, strong possibility of developing into major mines. A heavy mineralized belt is known to exist and other portions of said ceded lands are known to be mineralized. Further discovery, exploration and development of these resources can best be accomplished by assurance of continuity of title, which would encourage investment of private capital

resulting in the creation of new base tax properties and an added source of individual income. History of the development of the mineral resources on and off the Reservation strongly indicates that said mineral resources can best be developed and managed and the investment of private capital encouraged if title to said lands remains in status quo.

(4) In addition to its mineral, grazing, and other natural resources, said ceded lands provide an excellent habitat for numerous forms of native game animals and birds and the area is considered vitally important to many residents of the State for hunting, fishing, and other recreational activities.

(5) Present conditions on and off the San Carlos Apache Indian Reservation prove conclusively that wildlife which abounds on said ceded lands can be best managed under the jurisdiction of the Arizona Game and Fish Commission with scientific management and trained, competent, and expert personnel, than under the Tribal Council of the San Carlos Apache Tribe who lacks qualified personnel to handle game management problems on the Reservation at the present time.

WHEREAS, By title of said lands remaining permanently where they now are, subject only to the issuance of new patents, the opening of prospecting for exploration and development and normal industrial progress, said lands can be better managed and developed to the greatest public good by the encouragement of the investment of private capital under free enterprise,

NOW THEREFORE BE IT RESOLVED, by the State Advisory Board of Arizona assembled in the city of Phoenix, Arizona, this fourth day of February 1959, that the State Advisory Board opposes the return of these ceded lands to the San Carlos Apache Indian Reservation, and

BE IT FURTHER RESOLVED, that the Arizona State Advisory Board requests the Secretary of the Interior to take whatever steps necessary to permanently establish the title to said lands where they now are, and that action be taken to reopen said lands to mineral discovery, exploration and development, it being the unanimous studied belief that, for the reasons above stated, such will serve the greatest public interest, and

BE IT FURTHER RESOLVED, that the Arizona State Advisory Board requests the Secretary of the Interior to initiate and carry to completion the necessary steps to determine any and all legal and equitable rights which the San Carlos Apache Indian Tribe may have in and to said ceded lands and that after the determination of said legal and equitable rights to submit this determination through the proper Congressional channels and that a fair compensation be paid to the San Carlos Apache Indian Tribe, and

BE IT FURTHER RESOLVED, That the Arizona State Advisory Board request that the National Advisory Board duly consider and render its support

to this resolution and that copies of this resolution be forwarded to:

Arizona Congressional Delegates
Mr. Roger Ernst, Assistant Secretary of the Interior
Director, Bureau of Land Management
Arizona Game and Fish Commission
Arizona State Land Commissioner
Arizona Cattle Growers' Association
Area 2 Wildlife Representatives
Arizona Game Protective Association

A. R. Spikes
Chairman, Arizona State
Advisory Board

APPENDIX I

Resolutions Adopted at the 19th Annual Meeting of the National Advisory Board Council

1. WHEREAS, recent decisions from the federal courts and recent rulings from the United States department of justice have deprived states, and persons, of rights which said states and persons previously enjoyed, to regulate and control the use of the water in those respective states; and

WHEREAS, said decisions and rulings are further a part of a general pattern developing gradually into federal supremacy and usurpation over water, which, if continued will destroy individual and states rights over water, and substitute in lieu thereof an all powerful centralized government control thereover;

BE IT THEREFORE RESOLVED by the National Advisory Board Council that the Congress and President of the United States and they are hereby urged and requested to take all necessary action to (1) preserve the water rights of the individual and the states and to prevent federal usurpation of those rights; (2) to see that legislation is initiated and supported to re-establish to the individuals and to the states, the rights taken from them by the federal courts and the justice department; and (3) in every way possible reaffirm, renew, and defend the concepts that water rights are property rights and that these established rights, to the use of water, by a state or an individual, should not be taken away without due process of law and adequate compensation.

2. WHEREAS, the Advisory Board members of Ouray Grazing District, Colorado No. 3, meeting in regular session at 10:00 a.m., October 7, 1958, by proper motion and unanimous approval did hereby resolve:

THAT WHEREAS, the Bureau of Land Management, United States Department of the Interior, now has administrative jurisdiction over the area commonly known as the American Flats and designated by the Bureau of Land Management as the American Flats Grazing Unit,

AND WHEREAS, the County Commissioners of the several counties within which the American Flats Grazing Unit is located have proposed that the administrative responsibility of the area be transferred from the Bureau of Land Management to another Federal land use agency,

AND WHEREAS, the Ouray Grazing District, Colorado No. 3 Advisory Board members are opposed to the transfer of administrative jurisdiction of the American Flats Grazing Unit from the Bureau of Land Management to any other land use agency.

THEREFORE, BE IT RESOLVED that the National Advisory Board Council at its 19th annual meeting affirm by adoption the above resolution by the Ouray Grazing District Advisory Board.

3. Following extended discussion of proposed wilderness legislation now before the Congress, the National Advisory Board adopted the resolution as follows:

WHEREAS, the available information on national recreational needs and resources, including wilderness needs, is not deemed sufficient for judicious action on proposed wilderness bills, and

WHEREAS, the Congress has provided for a national Recreation Resources Review Commission for the purpose of assembling and reporting such information, now

THEREFORE, BE IT RESOLVED, that the National Advisory Board Council urges the Congress to defer action on pending wilderness legislation until the report of the above named commission has been transmitted to the Congress and made available for study by the Congress and the general public.

APPENDIX J

Resolution

WHEREAS the Desert Land Act of March 3, 1897, as amended and supplemented, provides for the entry of desert lands for agricultural crop production with irrigation, and

WHEREAS many applicants for such entries contemplate the development of underground water for irrigation of their entered land, and

WHEREAS the adequacy and dependability of such underground water supplies are not usually determined without extensive drilling which requires much time and money and with questionable probability of success, and

WHEREAS it has been the practice of many such Desert Land entrymen to plow up and otherwise disturb the native soil and vegetation of their entered land before a water supply has been assured which results in serious problems of erosion and deterioration of these resources,

NOW THEREFORE BE IT RESOLVED that legislation or regulations be amended to require entrymen under the Desert Land Act to refrain from causing disturbance to the native rangelands except as may be necessary in carrying on drilling operations until a dependable and adequate water supply for the entered lands has been proven.

APPENDIX K

Resolution

WHEREAS,it has been the practice of the U. S. Forest Service to make reductions of livestock numbers and adjustments in seasons of use and duration of time of use on lands under their control, and

WHEREAS, these livestock numbers when denied use of Forest Service land must either go on private land or Bureau of Land Management land and,

WHEREAS, the U. S. Forest Service and the Bureau of Land Management recognized the need for integration and coordination of grazing use between Bureau of Land Management lands and National Forest lands in a memorandum of understanding approved March 15, 1951,

THEREFORE, be it resolved that the National Advisory Board Council for Grazing Districts strongly urges that when adjustments are to be made in time, numbers, or seasons of use, which affect both agencies, the conditions of the above mentioned memorandum of understanding be observed by the local officials of both agencies in order that undue hardship will not be imposed on the parties involved.

APPENDIX L

Report of Meeting of Bureau of Land Management and Forest Service Representatives in Denver, Colorado February 23, 1951

In accordance with instructions (see memorandum of February 6 from Director Clawson to Regional Administrator, Region 4, and memorandum of February 5 from Chief Watts to Regional Forester, Region 2), representatives of the two agencies met in the office of the Regional Forester, in Denver, for the purpose of discussing better coordination of grazing use between BLM and FS lands (a) on the Uncompahgre Forest and adjacent BLM districts, (b) in Colorado and (c) throughout the western states. Additionally, the National Forest Advisory Board of Appeals, representing the Secretary of Agriculture, preliminary to hearing an appeal from the decision of the Chief of the Forest Service to the Secretary in the matter of adjusting grazing seasons on the Uncompahgre Forest, had requested information covering the effect of the Forest Service program on BLM lands in that vicinity.

BLM representatives: Assistant Chief, Division of Range Management, Milton W. Reid, Washington, D. C.; Regional Administrator, H. Byron Mock, Salt Lake City; Regional Chief, Division of Range Management, Kelso P. Newman, Salt Lake City; Range Conservationist Warren J. Gray, Salt Lake City; Evert L. Brown, Range Manager, District 3, Montrose, Colorado; and Henry E. Snyder, Range Manager, Districts 4 and 7, Grand Junction, Colorado.

Forest Service representatives: Chief, Division of Range Management, W. L. Dutton, Washington, D. C.; Regional Forester, Edward P. Cliff, Denver, Colorado; Regional Chief of Range Management, E. D. Sandvig, Denver, Colorado; Range Conservationist, Kenneth W. Parker, Tucson, Arizona; C. K. Collins, Forest Supervisor, Uncompahgre Forest, Delta, Colorado; Frank Smith, Grazing Staff Assistant, Uncompahgre Forest, Delta, Colorado; C. Leslie Burton, District Ranger, Miguel District, Montrose, Colorado; Howard F. Harlan, District Ranger, Delta District, Delta, Colorado; and, Elwin W. Stevens, District Ranger, North End District, Delta, Colorado.

Discussion centered mainly around the Uncompahgre cattle range involved in the above mentioned appeal, and the adjacent BLM grazing district units, with special emphasis on those problems arising where the same permittees use both BLM and FS lands. In selected cases, the present method of use was traced in detail from the time of entry on BLM land in the spring, through the summer range on FS land and back to the end of the fall season on BLM lands. The situation with respect to both BLM and FS grazing units - acreages, permitted obligations, estimated grazing capacities, and proposed reductions in use - is summarized in an attached tabulation.

As to the situation on the Uncompahgre and adjoining BLM grazing district units, it was agreed:

1. That data furnished by the respective agencies show that, generally, the ranges are over-stocked and depleted; that the

degree of current utilization is resulting in further deterioration.

2. That in solving the problem, both agencies will need to make substantial adjustments in grazing use.

3. That neither agency is in position at this time to say precisely just what amount of adjustment ultimately will be necessary.

4. That where the lands under the administration of both agencies are used by the same permittees, they should, within administrative limits, be considered as one unit when working out needed adjustments in number and seasons, methods of management, and installation of fences, water developments, and other improvements.

5. That common to both agencies are the following objectives: (a) perpetuation of the resources on the Federal range lands through proper use, protection, and development; (b) best practical correlation of the use of Federal range lands with the use of dependent, privately owned lands; and (c) maximum stabilization of that part of the livestock industry which makes use of these lands. At the same time, it is recognized that application of needed adjustments in grazing use on the lands administered by both agencies, in this instance, will have a severe impact on some, but not all of the users. It is further recognized that in situations of this kind, the first responsibility of both agencies is to the Federal range lands.

6. That the local representatives of both agencies should hold further meetings to work out the best possible coordinated approach to the problem.

As to the situation generally, in Colorado and elsewhere throughout the West, it was agreed:

1. That there is considerable opportunity for better coordination of grazing use between BLM and FS grazing lands.

2. That with some variations, the problem of coordination on the Uncompahgre and adjacent BLM grazing districts is typical of the problems elsewhere.

3. That administration could be expedited and improved in many localities through cooperative agreements at the regional level providing for exchange of areas so as to take advantage of natural topographic features or to consolidate administrative areas.

4. That in every case, where needed adjustments affect both BLM and FS lands, full and early joint consideration should

be given the problem, not only between agency representatives but also with the appropriate advisory boards.

5. That the jurisdictional responsibilities of each agency should be fully recognized, and that representatives of both should make a special effort to avoid public criticism of the programs of the other.

Subject to approval of the Washington offices of the BLM and FS, it is recommended that copies of this report be sent to all western field officers of the two agencies.

Signed:

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/S/ W. L. Dutton
W. L. Dutton, Chief, Division of
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/S/ H. Byron Mock
H. Byron Mock, Regional Administrator,
Region 4, Bureau of Land Management.

/S/ Edward P. Cliff
Edward P. Cliff, Regional Forester
Region 2, U. S. Forest Service

Approved:

March 15, 1951

/S/ Marion Clawson
Marion Clawson, Director
Bureau of Land Management

/S/ Lyle F. Watts
Lyle F. Watts, Chief
U. S. Forest Service

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